

TOWNSHIP OF MIDDLETOWN
Department of Planning and Community Development
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Organized December 14, 1667
"Pride in Middletown"



JASON A. GREENSPAN, P.P., A.I.C.P.
Director of Planning and Community Development

December 30, 2008

VIA HAND DELIVERY

Council on Affordable Housing
Attn: Ms. Lucy Vandenberg, Executive Director
101 South Broad Street
CN 813
Trenton, NJ 08625

**Re: Petition for Substantive Certification
Township of Middletown, Monmouth County**

Dear Ms. Vandenberg:

In a demonstration of the Township's continued commitment to voluntary compliance with its affordable housing obligations, on December 11, 2008, the Middletown Township Planning Board adopted an amended Housing Element and Fair Share Plan to comport with COAH's current regulations. On December 11, 2008, the governing body endorsed the amended plan and authorized this office to file the plan with COAH and to petition COAH for substantive certification of the Township's amended Housing Element and Fair Share Plan.

We are hereby submitting a copy of the following documents, which comports with the COAH filing requirements at N.J.A.C. 5:96-2.2:

1. The Township's amended Housing Element and Fair Share Plan, including supporting documentation as required under N.J.A.C. 5:97-3.2(a);
2. A certified copy of the Planning Board resolution adopting the amended Housing Element and Fair Share Plan, dated December 11, 2008;
3. A certified copy of the governing body resolution endorsing the amended Housing Element and Fair Share Plan, dated December 11, 2008;
4. The current service list

Also enclosed, please find copies of the following:

1. A copy of the Township's COAH Petition Application;
2. A certified copy of the Township's Resolution requesting the Court to review and approve its draft Spending Plan;

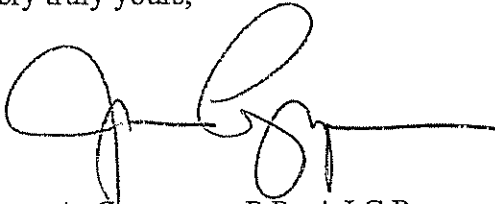
Save a Life, Save a Neighborhood, Save Taxes – Volunteer!

3. A certified copy of the Township's Resolution requesting, a copy of the Township's Development Fee Ordinance;
4. A certified copy of the Township's Resolution of Intent to Bond;

Please acknowledge that the Township's plan is "filed" as that term is defined in COAH's regulations. This will therefore verify that the Township has complied with the filing requirements under Section 313 of the FHA.

Thank you in advance for COAH's continued cooperation and assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jason A. Greenspan', with a long horizontal line extending to the right.

Jason A. Greenspan, P.P., A.I.C.P.
Director of Planning and Community Development

Enclosures

cc: Bernard Reilly, Esq. (via regular mail, without enclosures)
Tony Mercantante, P.P., A.I.C.P. (via regular mail, without enclosures)
Michael A. Jedziniak, Esq. (via regular mail, with enclosures)
James Gorman, Esq. (via regular mail, without enclosures)

**RESOLUTION OF THE PLANNING BOARD OF
THE TOWNSHIP OF MIDDLETOWN
ADOPTING AN AMENDED HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, the Planning Board of the Township of Middletown, County of Monmouth, State of New Jersey, adopted its current Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on December 8, 2005; and

WHEREAS, the Middletown Township Council endorsed the Housing Element and Fair Share Plan on December 19, 2005; and

WHEREAS, the Governing Body petitioned the Council on Affordable Housing for substantive certification on December 20, 2005; and

WHEREAS, the Township of Middletown has not yet received substantive certification from the Council on Affordable Housing; and

WHEREAS, the Planning Board has determined to adopt an amended Housing Element and Fair Share Plan to comply with COAH's most recent set of procedural and substantive regulations; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the amended Housing Element and Fair Share Plan on December 11, 2008; and

WHEREAS, the Planning Board has determined that the amended Housing Element and Fair Share Plan is consistent with the goals and objectives of the Township of Middletown's current Master Plan and that adoption and implementation of the amended Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

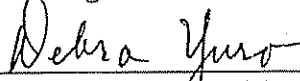
NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of Middletown, County of Monmouth, State of New Jersey, that the Planning Board hereby adopts the amended Housing Element and Fair Share Plan.

AYES: Brightbill, Deus, Izzo, McManus, Raisch, Rathjen

NAYS:

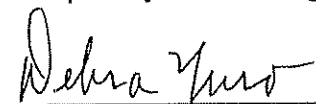
ABSTAIN:

ABSENT: Coleman, Fiore, Prewett, Strong



Debra Yuro, Planning Board Secretary

I, Debra Yuro, Secretary to the Township of Middletown Planning Board do hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Board on this 11th day of December, 2008.



Debra Yuro, Planning Board Secretary

RESOLUTION NO. 08-272

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MIDDLETOWN, MONMOUTH COUNTY, NEW JERSEY, ENDORSING THE TOWNSHIP'S AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN, AND PETITIONING THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING FOR SUBSTANTIVE CERTIFICATION

WHEREAS, the Planning Board of the Township of Middletown adopted an amended Housing Element and Fair Share Plan on December 11, 2008; and

WHEREAS, a true copy of the Resolution of the Planning Board adopting the amended Housing Element and Fair Share Plan is attached pursuant to N.J.A.C. 5:95-2 2(a)2

NOW THEREFORE BE IT RESOLVED that the Township Committee of Township of Middletown, County of Monmouth, State of New Jersey, hereby endorses the amended Housing Element and Fair Share Plan as adopted by the Middletown Planning Board; and

BE IT FURTHER RESOLVED that the Township Committee of the Township of Middletown, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3 2(a), submits this Petition for Substantive Certification of the amended Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the Petition; and

BE IT FURTHER RESOLVED that Notice of this Petition for Substantive Certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this Resolution, the adopted amended Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Middletown Municipal Clerk's office located at 1 King's Highway, Middletown, New Jersey, during regular business hours for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.


MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008


HEIDI ABS, Township Clerk

RESOLUTION NO: 08-273

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH
RESOLUTION OF INTENT TO FUND SPENDING PLAN SHORTFALL FOR
AFFORDABLE HOUSING PROGRAMS IN THE TOWNSHIP'S FAIR SHARE PLAN**

WHEREAS, pursuant to the substantive regulations of the New Jersey Council On Affordable Housing (COAH), certain portions of the Township's amended Housing Plan Element and Fair Share Plan as adopted by the Middletown Township Planning Board on December 11, 2008 and endorsed by the Township Committee of the Township of Middletown on December 11, 2008 may require a financial commitment by the Township; and

WHEREAS, pursuant to N.J.A.C. 5:97-6.7(d)6, COAH requires a municipality to resolve to address any shortfall in the funding of its affordable housing programs as set forth in the Spending Plan and the Fair Share Plan, including its willingness to incur bonded indebtedness, if necessary, to provide the funds required for the timely implementation of the Fair Share Plan;

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middletown, in the County of Monmouth, New Jersey, as follows:

1. To the degree that the funds required for the implementation of the Township's Fair Share Plan, as will be more particularly set forth in the Township's approved Spending Plan, are not available at the time they are needed from all available affordable housing funding sources, the Township will provide the funding needed to cover any shortfall through appropriations in the Township's annual budget, bonding, or any other legal means, with the understanding that any future affordable housing funding which becomes available may be used to reimburse the Township for the costs incurred; and

MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.



HEIDI ABS, Township Clerk

RESOLUTION NO. 08-274

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF MIDDLETOWN REQUESTING COAH TO REVIEW AND APPROVE
THE TOWNSHIP'S DRAFT SPENDING PLAN**

WHEREAS, the Township Committee of the Township of Middletown, County of Monmouth petitioned the Council on Affordable Housing (COAH) for substantive certification on March 13, 2000 and December 20, 2005; and

WHEREAS, the Township of Middletown received approval from COAH on January 11, 1995 of its Development Fee Ordinance; and

WHEREAS, the Development Fee Ordinance establishes an Affordable Housing Trust Fund that may include funds collected from development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or other funds collected in connection with the Township's affordable housing program];

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an Affordable Housing Trust Fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and

8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;

9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;

10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and

11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Township of Middletown has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Middletown, County of Monmouth requests that COAH review and approve Middletown's draft spending plan.

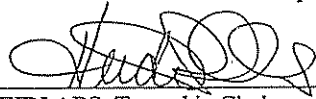
MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.



HEIDI ABS, Township Clerk

RESOLUTION NO. 08-275

RESOLUTION OF THE COMMITTEE OF THE TOWNSHIP OF
MIDDLETOWN REQUESTING COAH TO REVIEW AND APPROVE
THE TOWNSHIP'S DRAFT DEVELOPMENT FEE ORDINANCE

WHEREAS, the Governing Body of the Township of Middletown, County of Monmouth petitioned the Council on Affordable Housing (COAH) for substantive certification on March 13, 2000 and December 20, 2005; and

WHEREAS, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

WHEREAS, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the COAH that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d) ;
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d) ;
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

WHEREAS, the Township of Middletown has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Middletown, County of Monmouth requests that COAH review and approve Middletown's development fee ordinance.

MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

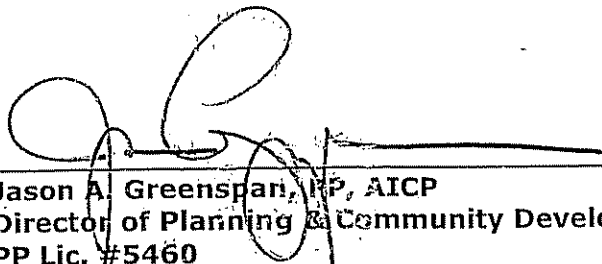
WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.


HEIDI ABS, Township Clerk

**AMENDED MASTER PLAN HOUSING ELEMENT
AND FAIR SHARE PLAN**

Township of Middletown
Monmouth County, New Jersey
December 1, 2008

Revised and Adopted December 11, 2008



Jason A. Greenspan, PP, AICP
Director of Planning & Community Development
PP Lic. #5460

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

MIDDLETOWN TOWNSHIP PLANNING BOARD

JUDITH H. STANLEY COLEMAN, CHAIRMAN
JOHN DEUS, VICE CHAIRMAN*
SALVATORE IZZO*
PAMELA M. BRIGHTBILL*
CLIFF RAISCH*
ANN PREWETT
CARL RATHJEN*
MARY LOU STRONG
MAUREEN UNSINN
BERNADETTE MCMANUS*, ALTERNATE 1
ANTHONY FIORE, ALTERNATE 2

* MEMBERS PARTICIPATING IN HOUSING ELEMENT & FAIR SHARE PLAN ADOPTION

JAMES H. GORMAN, ESQ., PLANNING BOARD ATTORNEY

MIDDLETOWN TOWNSHIP COMMITTEE

GERARD P. SCHARFENBERGER, MAYOR
PAMELA M. BRIGHTBILL, DEPUTY MAYOR
SEAN F. BYRNES, COMMITTEEMAN
PATRICK SHORT, COMMITTEEMAN
THOMAS P. WILKENS, COMMITTEEMAN

BERNARD M. REILLY, ESQ., TOWNSHIP ATTORNEY

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

JASON A. GREENSPAN, PP, AICP, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT
JANKI P. PATÉL, PP, AICP, ASSISTANT PLANNER
DEBRA YURO, PLANNING AND ZONING BOARD SECRETARY

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INTRODUCTION

This is the Housing Element and Fair Share Plan of the Township of Middletown, Monmouth County, New Jersey. This plan follows the requirements of Section 310 of the New Jersey Fair Housing Act (FHA), N.J.S.A. 52:27D-310, and the relevant provisions of the regulations adopted by the New Jersey Council On Affordable Housing (COAH) at N.J.A.C. 5:97-2.3 ("Content of a Housing Element") and N.J.A.C. 5:97-3.2 ("Content of a Fair Share Plan"). In addition to this Introduction, this plan includes:

Demographic Analysis: An analysis of Middletown's demographic characteristics, including household size, income level and age;

Housing Inventory: An inventory of Middletown's housing stock;

Employment Analysis: An analysis of Middletown's existing and probable future employment characteristics;

Appropriate Lands: A discussion of land in Middletown most appropriate for construction of low and moderate income housing;

Housing Projections: Projections of Middletown's housing stock, including the probable future construction of low and moderate income housing, for the next ten years;

Fair Share Determination: A determination of Middletown's present and prospective fair share for low and moderate income housing obligation based upon COAH's new third round methodology; and

Fair Share Plan: A description of proposed mechanisms that Middletown will utilize to specifically address the rehabilitation share, prior round obligation, and growth share obligation.

Principal goals of the Housing Element and Fair Share Plan are:

1. To provide affordable housing to meet the Township's fair share obligation by demonstrating that existing zoning and planned changes in zoning provide adequate capacity to accommodate household and employment growth projections; and
2. To provide households with access to affordable housing to meet present and prospective housing needs, with particular attention to low and moderate income housing.

Middletown has demonstrated a long-standing commitment to providing its fair share of affordable housing. A simple review of the demographics and diverse housing types within the Township demonstrates that Middletown clearly has not used its zoning powers to exclude low and moderate income households. An examination of the most reliable information, the 2000 Census, the 2006 American Community Survey (ACS) and data from the New Jersey Construction Reporter, demonstrates Middletown Township's open door zoning policies:

- According to the ACS, thirty one percent (31%), of all households in the Township (or a total of 7,315) earn an income of less than \$60,000 per year, which is considered a moderate-income for a family of three in Region 4 in 2006.
- In 2006, at least seventeen percent (17%) of all households in the Township (or a total of 4,087) earn an income of less than \$37,215 per year, which is considered a low income for a family of three in Region 4.
- Per the 2000 Census, seventy two percent (72%) of all rental units in the Township (or a total of 2,274) had a specified asking rent of under \$900.00 per month. This is well below the 2000 the rent level for a moderate-income two-person

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

household (\$1,032 per month). Of those units, the median rent was \$738.00 per month. This figure represents a significantly lower rent than that determined to be affordable to a moderate-income two-person household.

- According to the 2000 Census, twenty one percent (21%) of all owner-occupied housing units in Middletown (or a total of 3,995), had a value of under \$150,000.00. These homes are therefore considered affordable to a moderate-income family of four under COAH standards. This ratio of affordable housing, approximately one out of five, is also significant because it closely mirrors the ratio considered minimally "substantial" by the Supreme Court in Mount Laurel II.
- According to the 2006 ACS, the median family income in Middletown is \$88,873 per year. However, 5,628, or 24 percent, of Township families have an income of under \$45,000.00 per year, and 7,315, or 31 percent, have an income under \$60,000 per year. In 2006, COAH's moderate-income level for a family of three was approximately \$60,000 per year.
- At least 310 new affordable units have been issued certificates of occupancy in Middletown since 2000. This represents 31% of the over 1000 total residential certificates of occupancy issued in Middletown during from 2000 through July 2008. These affordable units come in myriad forms such as for-sale family units, senior, and family rentals and accessory rental apartments. These statistics highlight Middletown's pro-active approach in providing more than the minimum requirement of affordable housing.

These facts demonstrate that the Township has created one of the most diverse and successful affordable housing programs in New Jersey.

Middletown received Cycle I substantive certification from COAH on March 14, 1994. Middletown immediately initiated implementation of that plan and -- as demonstrated by the sheer number of affordable housing units created throughout the Township -- has steadfastly continued to implement its housing programs to create affordable housing for the region.

On March 13, 2000, Middletown timely petitioned COAH for substantive certification of its cumulative Cycle I/II plan, which included a Fair Share Plan for a staggering 1670 affordable units, even though the Township's obligation was determined to be 1655 units. Even though the Fair Housing Act provides that the Township did not need to commence implementation until after COAH certified its plan (see N.J.S.A. 52:27D-314), the Township took many steps to create affordable housing as it awaited COAH's review and approval of its affordable housing plan, as follows:

1. The Township continued to implement its successful Accessory Apartment Program even though it had already created well over 10 units, which was the cap created by COAH's Cycle II regulations. In January of 2002, the Township began offering \$10,000 grants to those property owners proposing to construct accessory. Eleven accessory apartments were added to Middletown's inventory between 2002 and 2005.
2. Even prior to the March 2000 submission, the Township commissioned an architect to complete a feasibility study for the Residential over Commercial (ROC) program, which sought to develop second story residential buildings over commercial establishments. This feasibility study cost Middletown approximately about \$10,000. The Township now provides grants averaging \$20,000.00 per unit for such projects. Zoning is in place at six different sites through out Middletown that can produce at least twenty affordable units.
3. Middletown has also continued to implement its Scattered Sites Housing Program even though it was not required to do so under its certified Cycle I plan. A total of seven

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

) affordable housing units were constructed on scattered sites between 2000 and 2005 in partnership with non-profit housing developers such as the Affordable Housing Alliance of Monmouth County.

4. Middletown also rehabilitated more than twenty deteriorated units occupied by low and moderate households, even though it was not required to do so under its certified Cycle I plan.
5. In addition, the Planning Board processed and approved the following projects while awaiting COAH' response to the Township's petition:
 - a. The Township purchased a site, and leased a portion to Conifer Realty for the development of 180 affordable senior citizen rental housing units. This has resulted from the settlement of litigation between the Borough of Atlantic Highlands and the Township of Middletown. Even though this was technically a Cycle I project, the litigation that ensued resulted in a radical change to its scope, which was not required under the Cycle I plan and which resulted in a project earmarked to partially address the Township's Cycle II obligation. On, November 25, 2008, Joseph Doria, Commissioner of the New Jersey Department of Community Affairs, participated in the ribbon-cutting ceremony of this development.
 - b. A site on Highway 35 (Block 878, Lot 35), commonly known as the Village at Chapel Hill, was rezoned in 2005 and produced thirty affordable family rentals in 2007.
 - c. A site on Highway 36 (Block 91, Lots 5-7) known as Regency Park was rezoned in the early 2000's and produced sixteen affordable family rental units in 2004.
 - d. A site on Park Ave. in the Port Monmouth neighborhood (Block 135, Lot 6.01) was rezoned in 2004 and produced six affordable family rentals in 2006. This site is owned and managed by the Affordable Housing Alliance of Monmouth County.
 - e. Two sites on Route 36 (Block 729, Lots 6-14 and Block 746, Lots 18, 19, 23-31) now known as Cottage Gate were rezoned allowing the development of affordable units. This project is now being completed; nine of thirteen affordable for sale units have been constructed, and one 5-bedroom group home is pending construction.
 - f. The Planning Board also approved a mixed use, "Residential-Over Commercial," development on Leonard Avenue that included eight new affordable rental units above retail uses. However, after a period of litigation, twelve new units will result instead of eight. This site was merely mentioned in the Cycle I plan. It was not required as a term of Cycle I certification. This project now became part of the Township's Cycle II Residential over Commercial project, and will soon become occupied.

Although COAH petitioned for round I/round II approval on March 13, 2000, COAH never granted, denied or conditioned certification of the Township's plan before COAH announced that it would no longer be reviewing and acting on approvals for round I/round II affordable housing plans.

On December 20, 2005, the Township petitioned for Cycle III substantive certification of a round three plan based upon the first version of COAH's round three regulations. While the Township closely interacted with COAH staff on its review of the Township's initial Cycle III plan, the Appellate Division invalidated portions of COAH's regulations in In re Adoption Of N.J.A.C. 5:94 and 5:95 By New Jersey Council On Affordable Housing, 390 N.J. Super. 1 (App. Div.), certif. denied 192 N.J. 72 (2007). Despite this setback, the Township continued to implement its affordable housing program to create new affordable housing units

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

throughout Middletown. More specifically, the following demonstrates the affordable housing created in the Township between December 20, 2005 and the present

1. The Township granted approval for an inclusionary zoning site on Harmony Road (Block 615, Lot 82), which will produce eighteen affordable family rental units in conjunction with new market rate townhomes. Commonly known as Harmony Glen, this site is currently under construction.
2. Twelve affordable units were approved in 2007 for a site on Highway 36 (Block 532, Lots 43 & 44). This will be a 100% affordable housing site with both for-sale units and family rental units owned and operated by the Affordable Housing Alliance of Monmouth County, and construction is pending.
3. In 2007, two affordable for-sale units were approved at the Brown's Fence site on Highway 36 (Block 517, Lots 3-8) in conjunction with new market rate townhomes. Construction is pending.
4. Six accessory apartments were added to Middletown's inventory between 2006 and 2008 showing the program's continuing viability and popularity.

On October 20, 2008, COAH's most recent substantive and procedural regulations became effective. This Housing Element and Fair Share Plan was developed in conformance with those regulations, and the associated policies expressed by COAH in the New Jersey Register and various guidance documents recently released by COAH. In addition, Middletown accepted COAH's invitation to meet with its staff and obtain guidance. This plan embodies the elements of the plan the Township's professionals discussed with COAH staff. Similar to the Township's 2000 Plan, Middletown has once again created a realistic opportunity for a surplus of affordable housing units, despite the fact that the Township's fair share obligations are among the highest in the state.

As demonstrated above, for the past 15 years, Middletown has persistently endeavored to satisfy its fair share housing obligations by utilizing myriad compliance mechanisms. The Township has shown a commitment to providing housing opportunities for low and moderate income households of all ages and backgrounds. Since receiving substantive certification for its First Round Fair Share Plan in 1994, Middletown has:

- Created an inclusionary zoning environment that facilitated the approval of well over 200 non-age restricted affordable housing units, and 240 affordable senior housing units;
- Encouraged a variety of affordable housing types including single-family detached homes, duplexes, condominium flats, townhouses, multifamily buildings, and accessory apartments;
- Fostered creative public-private partnerships to encourage construction of affordable senior housing on Township property;
- Utilized over \$5 million in federal Community Development Block Grant (CDBG) resources to rehabilitate Township housing stock occupied by low and moderate income households
- Donated municipally-owned properties throughout the Township to developers for the construction of affordable housing;
- Created opportunities for the construction of supportive and special needs housing
- Facilitated other creative affordable housing techniques such as a Residential over Commercial program which provides direct cash construction subsidies to the developer.

In sum, the Township has created 1248 affordable housing credits through the successful implementation of these and other affordable housing programs. Of this total, 424 units of

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affordable housing were actually constructed within the Township, and 37 more have already secured development approvals.

Without question, Middletown is a quintessentially inclusionary municipality that stands as a model for all New Jersey towns seeking to comply with their affordable housing obligations. Commissioner Doria recently lauded the Township for its efforts to provide affordable housing. This plan is a continuation of the Township's long-standing compliance efforts which, once certified by COAH, will provide for the Township's fair share of affordable housing for the next decade.

DEMOGRAPHICS

Population

Middletown's resident population increased from 66,327 people in 2000 to an estimated 69,525 in 2008, representing a 4.8% increase. Table 1 shows the greatest growth rate in Middletown Township over the last 68 years occurred during the post-World War II suburban boom years (1950-1960) when the population increased by 143 percent from 16,203 to 39,375.

In 1990, the Township's population peaked at 68,183. While Middletown's population decreased from this peak to 67,479 in 2000, the 2006 American Community Survey estimates that the Township's population has once again rebounded to a high mark of 69,870 in 2008, representing a 5.3% jump from the 2000 Census.

TABLE 1: MIDDLETOWN POPULATION, 1940-2008

Year	Population	% Change
1940	11,018	
1950	16,203	47.1
1960	39,375	143.0
1970	54,623	38.7
1980	62,574	14.6
1990	68,183	9.0
2000	66,327	-2.7
2006*	69,870	5.3

*American Community Survey Estimate
Source: US Census Bureau

Household Size

Middletown's average household size has remained relatively stable over the past 18 years, and as of 2006 stands at 2.97. It is estimated that the average household size of renter-occupied units has slightly increased by 1.8% to 2.23.

TABLE 2: HOUSEHOLD SIZE

	1990	2000	2006
Average household size	2.95	2.84	2.97
Average household size of owner-occupied unit	3.09	2.96	3.07
Average household size of renter-occupied unit	2.19	2.09	2.23

Source: US Census Bureau

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Age

Indicators suggest Middletown Township is a maturing community. The median age in Middletown increased from 38.8 in 2000 to 41 in 2006, surpassing the median age in both Monmouth County (39.8) and the State (38.2). Additionally, there was a 35.2% increase in those aged 55 to 64, and a 21.6% increase in those aged 65 to 84. The percentage of the Township's population over age 65 increased from 12.8% in 2000 to 14.4% in 2006.

TABLE 3: POPULATION BY AGE

	2000	2006	% Change
Under 5	4,510	4,080	-9.5%
5 to 14	10,121	9,815	-3.0%
15 to 19	4,185	5,642	34.8%
20 to 34	14,144	14,703	4.0%
35 to 54	22,627	22,473	-0.7%
55 to 64	6,438	8,704	35.2%
65 to 84	7,491	9,112	21.6%
85 years and over	996	983	-1.3%
Median age (years)	38.8	41	5.7%

Source: US Census Bureau

Income

Middletown's median household income increased by 18% from \$75,566 in 1999 to \$88,873 in 2006. Between 1999 and 2006, income ranges of \$150,000 to \$ 199,999, and \$200,000 and more, increased the most, at 67 and 57 percent respectively. In absolute terms, households with an income between \$150,000 and \$ 199,999 increased the most by 1,141 households (Table 4).

TABLE 4: HOUSEHOLD INCOME

	1999	2006	Number Change	% Change
Less than \$10,000	796	953	157	20%
\$10,000 to \$14,999	582	569	-13	-2%
\$15,000 to \$24,999	1,380	1,421	41	3%
\$25,000 to \$34,999	1,679	1,144	-535	-32%
\$35,000 to \$49,999	2,397	1,663	-734	-31%
\$50,000 to \$74,999	4,704	3,842	-862	-18%
\$75,000 to \$99,999	3,880	4,084	204	5%
\$100,000 to \$149,999	4,409	4,186	-223	-5%
\$150,000 to \$199,999	1,703	2,844	1,141	67%
\$200,000 or more	1,729	2,707	978	57%
	23,259	23,413		

Source: US Census Bureau

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Middletown's median household income and per capita income figures remain higher than both County and State figures (Table 5). Between 1999 and 2006, Middletown's median household income increased by 17.6%, and per capita income increased by 13.7%. During this same timeframe, the County's median household income increased at a slightly faster rate. Both the County and the State's per capita income are increasing at a faster rate than Middletown's.

TABLE 5: INCOME COMPARISON, MIDDLETOWN & MONMOUTH COUNTY

MEDIAN HOUSEHOLD INCOME	1999	2006	% Change
Middletown	\$75,566	\$88,873	17.6%
Monmouth County	\$64,271	\$77,160	20.1%
New Jersey	\$55,146	\$64,470	16.9%
PER CAPITA INCOME	1999	2006	% Change
Middletown	\$34,196	\$38,873	13.7%
Monmouth County	\$31,149	\$36,767	18.0%
New Jersey	\$27,006	\$31,877	18.0%

Source: US Census Bureau

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HOUSING INVENTORY

The following section provides detailed summary of the housing stock in Middletown, including occupancy status, tenure, vacancy, year built, type, value, rents, and housing quality indicators.

Number of Housing Units and Vacancy Rates

According to Census data shown in Table 6 below, between 1989 and 2006 the number of occupied housing units increased by 3.4% percent. While representing only 5% of Middletown's total housing units, vacant units increased by a noteworthy 41% between 1989 and 2006. Among rental units, the rental vacancy rate in 2006 decreased to 1.3% compared to 2.3% in 2000, which is indicative of a slightly increase number of vacant non-rental housing units.

TABLE 6: OCCUPIED AND VACANT HOUSING UNITS, 1989, 2000, 2006

	1989		2000		2006	
	Units	% total	Units	% total	Units	% Total
Occupied	22,637	96%	23,236	97%	23,413	95%
Vacant	858	4%	605	3%	1,214	5%
Total	23,495	100%	23,841	100%	24,627	100%

Source: US Census Bureau

Number of Units in Structure

In 2006, there were a total of 24,627 housing units in Middletown Township. The majority of the Township's housing units remain single family detached (79.7%). There was a substantial increase, i.e. 415, in the number of sites housing more than five units.

TABLE 7: NUMBER OF HOUSING UNITS IN STRUCTURE, 2000 & 2006

	2000		2006		% change 2000-2006
1-unit, detached	19,219	80.6%	19,632	79.7%	2.1%
1-unit, attached	1,471	6.2%	1,878	7.6%	27.7%
2 units	345	1.4%	102	0.4%	-70.4%
3 or 4 units	504	2.1%	342	1.4%	-32.1%
Greater than 5 units	2,258	9.5%	2,673	10.9%	18.4%
Mobile home	33	0.1%	0	0.0%	-100.0%
Boat, RV, van, etc.	11	0.0%	0	0.0%	-100.0%
Total	23,841	100	24,627	100	3.3%

Source: US Census Bureau

Age of Housing

As shown in Table 7, the majority of Middletown Township's housing stock was constructed 1950 and 1979, with the most productive years being between 1950 and 1959. This is typical of post-war development trends in the United States, and certainly matches Middletown's population trends. Slightly over 7% of the Township's housing stock has been built since 1990.

TABLE 7: HOUSING STOCK AGE

Year Built	Number	% Total
Built 2005 or later ¹	107	0.4%
Built 2000 to 2004	569	2.3%
Built 1990 to 1999	1,169	4.7%
Built 1980 to 1989	4,430	18.0%
Built 1970 to 1979	4,516	18.3%
Built 1960 to 1969	4,236	17.2%
Built 1950 to 1959	5,912	24.0%
Built 1940 to 1949	1,328	5.4%
Built 1939 or earlier	2,360	9.6%
Total	24,627	

Source: US Census Bureau

Housing Values: Owner Occupancy & Affordability

The 2006 median housing value in Middletown Township was \$441,200, which is 109% greater than the 2000 median value of \$210,700. This jump far eclipses increases in median household income during this timeframe. The greatest percentage (43.5%) of owner-occupied units by housing value was in the \$300,000 to \$499,999 range, (8,933 units). Housing units valued in the \$150,000 to \$299,999 range are becoming rare; only 16% of 2006 owner-occupied housing inventory were valued in this range, where in 2000 this figure was at 53%. As the chasm has widened between household income and housing values, Middletown has proactively sought to increase the supply of affordable housing.

TABLE 8: HOUSING VALUES, OWNER-OCCUPIED UNITS, 2000 & 2006

	2000		2006	
	# Units	% Total	# Units	% Total
Less than \$50,000	52	0.3%	0	0.0%
\$50,000 to \$99,999	630	3.4%	46	0.2%
\$100,000 to \$149,999	3,273	17.5%	559	2.7%
\$150,000 to \$199,999	4,739	25.3%	975	4.8%
\$200,000 to \$299,999	5,276	28.1%	2,306	11.2%
\$300,000 to \$499,999	4,101	21.9%	8,933	43.5%
\$500,000 to \$999,999	570	3%	7,219	35.2%
\$1,000,000 or more	104	0.6%	475	2.3%

Source: US Census Bureau

¹ The Housing Stock Projections Chapter includes data from the New Jersey Construction Reporter showing greater than 105 certificates of occupancy issued for new dwelling units after 2005.

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The total number of owner-occupied households in Middletown increased 4.7% between 1990 and 2000 to a total 20,065 households. In 2000, 19% of total owner households fell within HUD-defined low-income categories, amounting to 3,858 households. This represents a 14% increase in low-income households from 1990, or 470 additional low-income owner-occupied households.

Changes that are most apparent occurred in the number "very low income" and "moderate-income" households. While the amount of "very low income" households dropped 19% (148 households), the number of "moderate-income" households increased by 37% (598 households).

TABLE 9: INCOME BREAKDOWN OF OWNER OCCUPIED HOUSEHOLDS, 1990-2000

Income Categories	Total Owner Households 2000	% Total 2000	Total Owner Households 1990	% Total 1990	Change 1990-2000	% change 1990-2000
< 30% MFI	635	3%	783	4%	-148	-19%
> 30%, < 50% MFI	1,027	5%	1,007	5%	20	2%
> 50%, < 80% MFI	2,196	11%	1,598	8%	598	37%
> 80% MFI	16,207	81%	15,769	82%	438	3%
Totals	20,065		19,157			

Source: Comprehensive Affordable Housing Strategy (CHAS) data provided by the US Census Bureau

Contract Rents & Affordability

In 2000, the median contract rent for rental units was \$836 with over 50% of renters paying \$750-\$1499 monthly. Slightly more than 20% of renters paid less than \$500 a month on contract rent as shown in Table 9.

TABLE 10: CONTRACT RENTS, 2000

	# Rental Units	% Total
Less than \$200	177	5.6%
\$200 to \$299	134	4.3%
\$300 to \$499	334	10.6%
\$500 to \$749	542	17.2%
\$750 to \$999	902	28.7%
\$1,000 to \$1,499	696	22.1%
\$1,500 or more	212	6.7%
No cash rent	151	4.8%
Total Units	3,148	

Source: US Census Bureau

According to Comprehensive Affordable Housing Strategy (CHAS) data provided by the US Census Bureau, the total number of renter-occupied households in Middletown decreased almost 9% between 1990 and 2000 to a total 3,171 households. In 2000, 53% of total renter households fell within HUD-defined low-income categories, amounting to 1,678 households. While this represents a minor 2% increase in total low-income households from 1990, the percentage of total renters that fell within income limits increased 6%.

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Notable changes include a 22% increase in the number of extremely low-income renter households, and a 19% decrease in the number of renter households earning greater than 80% of median family income.

TABLE 11: INCOME BREAKDOWN OF RENTER OCCUPIED HOUSEHOLDS, 1990-2000

Income Categories	Total Renter Households 2000	% Total 2000	Total Renter Households 1990	% Total 1990	Change 1990-2000	% change 1990-2000
< 30% MFI	811	26%	663	19%	148	22%
> 30%, < 50% MFI	457	14%	531	15%	-74	-14%
> 50%, < 80% MFI	410	13%	449	13%	-39	-9%
> 80% MFI	1,493	47%	1,837	53%	-344	-19%
Total	3,171		3,480			

Source: Comprehensive Affordable Housing Strategy (CHAS) data provided by the US Census Bureau

The decrease in the number of reported renter-occupied units does not necessarily reflect market demands; rather, it is an expression of a larger national trend towards homeownership.

Housing Cost Burden

CHAS data measure the degree of "housing cost burden" for those earning less than 80% of Middletown's median household income, i.e. \$75,566.

"Housing cost burden" is defined as follows:

- Cost burdened (households paying between 30 and 50 percent of their household income on housing); and
- Severe cost burdened (those paying more than 50 percent of their household income on housing).

Of Middletown's total 23,236 households in 2000, 3,664 (16%) experienced some degree of cost-burden, and 2,003 (9%) households experienced severe housing cost burden. Table 12 shows a detail of the cost burden issue by income category and housing type.

TABLE 12: PERCENT/NUMBER COST BURDENED BY INCOME & HOUSING TYPE

		Extremely Low Income		Very Low Income		Low Income	
		Cost Burden	Severe Cost Burden	Cost Burden	Severe Cost Burden	Cost Burden	Severe Cost Burden
Renters	# of Renter Households	586	455	278	102	201	32
	% Renter Households in Income Category	72%	56%	61%	22%	49%	8%
	% Renter Households in Township	18%	14%	9%	3%	6%	1%
Owners	# of Owner Households	573	497	791	420	1235	496
	% Owner Households in Income Category	90%	78%	77%	41%	56%	23%
	% Owner Households in Township	3%	2%	4%	2%	6%	2%

Source: Comprehensive Affordable Housing Strategy (CHAS) data provided by the US Census Bureau

- Overall, 2,599 owner-occupied households earning less than 80% of median household income experience some degree of housing cost burden. This represents 13% of the Township's total owner-occupied households.
- 1,065 renter-occupied households earning less than 80% of median household income experience some degree of housing cost burden. This represents 34% of the Township's total renter households.
- An overwhelming majority (78%) of extremely-low-income owners experience severe cost burden. Similarly, a majority (56%) of extremely-low-income renters experience severe cost burden.
- The total number (2,599) of cost burdened, owner occupied low-income households triggers the need to provide financial assistance, particularly housing rehabilitation activities for extremely-low-income households.
- Based on the number of renter-occupied, cost burdened and severely cost burden households, there remains a continuing need to provide affordable rental units throughout the Township. The Fair Share Plan recognizes this need by providing a range of family rental options to satisfy the Township's Third Round housing obligation.

Housing Quality and Rehabilitation

Housing condition relies on functional utility and the suitability for human habitation. Households suitable for habitation are generally considered as standard units. Those not suited for habitation are substandard. According to the Substantive Rules at N.J.A.C. 5:97,

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

A unit may also be considered substandard if one or more of the following defects are present:

1. No bath facilities or only a half bath.
2. Source of water other than a public water system, a private water company, a drilled or dug individual well.
3. No kitchen facilities.
4. Sewage disposal is other than public sewer, septic tank, or cesspool.
5. Heating equipment is by fireplace, stove, portable room heater or none at all.
6. Lacks complete plumbing
7. Contains 1.01 or more persons per room.
8. No cooking fuel used.
9. No fuel used to heat hot water.
10. Any other violations constituting health and/or safety hazards.

A "Substandard unit which is suitable for rehabilitation" means a unit which is structurally sound and financially feasible for rehabilitation. An improvement is financially feasible when the cost of repair or replacement is off-set by the value added to the property. A substandard unit which is not suitable for rehabilitation means a unit in such condition where it is neither structurally nor financially feasible for rehabilitation.

It is extremely difficult to provide an accurate count of substandard units in Middletown. The 2000 U.S. Census indicates that 40 housing units lack complete plumbing for exclusive use, representing a 37% improvement since 1990. However, 83 units lack complete kitchen facilities, representing a 76% increase since 1990. Combined, these units represent 0.5 percent of the Township's 23,236 occupied housing units in 2000. These indicators obviously encompass only the most severely inadequate housing units.

The U.S. Census cannot be the sole source in estimating substandard units, since all dwellings which contain code violations are not listed. It is Middletown's best estimate that .05 percent of the owner occupied and 2 percent of the rental housing units could be classified as substandard. These estimates are consistent with COAH's Substantive Rules at Appendix B, which assigns the Township a 154 unit rehabilitation obligation.

Technically, every structure in Middletown is capable of being rehabilitated. However, a small portion of the substandard units are not financially feasible to repair. An example of a "non-rehabilitatable" unit would be a household in such poor condition that it would be less expensive to demolish the building and construct a new dwelling of equal utility than it would be to repair the building. In Middletown it is anticipated that this would be the exception rather than the rule. Therefore, it is believed that 95% of the substandard housing units are suitable for rehabilitation.

Given the advancing age of housing units in Middletown and the high percentage of households experiencing housing problems, there remains a need for rehabilitation programs, particularly for low-income families. The Township will continue to earmark resources to rehabilitate substandard owner-occupied units as part of its annual federal Community Development Block Grant (CDBG) entitlement and from Neighborhood Preservation Program (NPP) grant funds, which were made available in 2008.

TABLE 13: HOUSING STOCK QUALITY INDICATORS

	# Units	% Total
Built before 1939	2,884	12.1
Overcrowded	277	1.2
Lacking complete plumbing facilities	40	0.2
Lacking complete kitchen facilities	83	0.4
No telephone service	94	0.4
No heating fuel	8	0
Total	23,841	

Source: US Census Bureau

Only 12% of Middletown's housing stock is 65 years or older, and only 1.2% of the Township's housing units can be considered "overcrowded." Less than one percent of the housing units in Middletown lacked complete plumbing, complete kitchen facilities, telephone service or central heating. Thus only a small percentage of the Township's housing stock can be considered "substandard."

"Overcrowding" is a housing unit containing more than one person per room. According to the 2000 Census, Middletown contains 277 overcrowded housing units: 154 overcrowded owner-occupied units, and 123 overcrowded renter-occupied units. It is estimated that between 35-40 low-income renter-occupied units experience some degree of overcrowding. Overcrowding is often a result of families doubling-up for economic or other reasons on an emergency or temporary basis. Due to worsening economic conditions, and an increasing demand for affordable housing, it is likely that the number of families doubling-up has increased since 2000, and further increases will be seen in both in owner-occupied and renter-occupied households.

EMPLOYMENT CHARACTERISTICS

Resident Employment

Middletown's total labor force increased since 2000, reaching 35,602 persons during the 2006 census compared to 33,789 persons in 2000 (an increase of 1,813 persons.) The number of employed persons in the civilian labor force remained somewhat static, while the unemployment rate increased from 3% to 8%. The increased unemployment rate will clearly place a cost burden on all Township households, and will particularly impact very low, low and moderate income households.

TABLE 14: EMPLOYMENT STATUS, 2000 & 2006

	2000	% Total	2006	% Total
Total Population (16 years and over)	50,882	100	54,587	100
In labor force	33,789	66	35,602	65
<i>Civilian labor force</i>	33,728	99	35,555	99
<i>Employed</i>	32,597	97	32,762	92
<i>Unemployed</i>	1,131	3	2,793	8
Armed Forces	61	<1	47	<1
Not in labor force	17,093	34	18,985	35

Source: US Census Bureau

Occupation

In 2006, the top four industry groups based on employment in Middletown were: 1) Educational and Healthcare assistance; 2) Finance and Insurance; 3) Professional and Management Services; 4) Retail Trade. (Table 15)

TABLE 15: 2006 Employed Civilian Labor Force by Industry

Industry	Number	Percent
Agriculture, forestry, fishing and hunting, and mining	121	0.4%
Construction	2,499	7.6%
Manufacturing	1,947	5.9%
Wholesale trade	1,172	3.6%
Retail trade	3,714	11.3%
Transportation and warehousing, and utilities	1,036	3.2%
Information	1,169	3.6%
Finance and insurance, and real estate and rental and leasing	4,556	13.9%
Professional, scientific, and management, and administrative and waste management services	4,215	12.9%
Educational services, and health care, and social assistance	6,957	21.2%
Arts, entertainment, and recreation, and accommodation, and food services	3,258	9.9%
Other services, except public administration	916	2.8%
Public administration	1,202	3.7%
Total Employed Persons 16 years and over	32,762	100.0%

Source: US Census Bureau

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The census data distribution of occupational positions in Middletown Township generally reflects the same percentages as Monmouth County, with only slight variations.

TABLE 16: OCCUPATIONAL DISTRIBUTION, MIDDLETOWN & COUNTY, 2006

Occupation	Middletown Total	% total	Monmouth County Total	% total
Management, Professional and Related Occupations	5,417	17	53,442	17
Service Occupations	12,300	38	123,932	39
Sales and Office Occupations	9,442	29	83,853	27
Farming, Fishing, and Forestry Occupations	121	<1	1,086	<1
Construction, Extraction, and Maintenance Occupation	2,499	8	21,901	7
Production, Transportation, and Material Moving Occupations	2,983	9	31,434	10
Total	32,762		315,648	

APPROPRIATE LANDS FOR LOW & MODERATE INCOME HOUSING

This section includes a discussion of land in Middletown most appropriate for construction of low and moderate income housing.

When considering lands most appropriate, substantial weight is given to reducing cost burdens shouldered by low and moderate income households. Rising fuel costs and increased commute times continue to deplete resources of those most in need of affordable housing. Accordingly, sites that exhibit the following characteristics rank high in terms of lands most appropriate:

- Adjacent to or within one mile of major shopping and services
- Location that promotes walking to places of employment and the use of modes of transportation other than vehicles (mass transit, bicycling)
- Proximity to highways and major arterial roadways to reduce length of daily vehicular trips
- Component of a mixed-use development promoting sustainability
- Location within the Metropolitan Planning Area (PA-1), which is the area considered by the Substantive Rules and the State Development and Redevelopment Plan as most suitable for growth and residential infill.

Another important consideration for selecting appropriate affordable housing sites is the ability to take a pro-active approach to "redeveloping" existing improved non-residential sites that are dilapidated, outmoded or are pending vacancy or demolition. A measurable aesthetic improvement can result. Often, the amount of peak hour vehicular trips is reduced from pre-development conditions based on the changed use, thus reducing strain on heavily taxed roadway infrastructure. The reduction in overall costs to developers (and thereby future residents) by utilizing established infrastructure such as existing water and sewer lines and capacity can be significant. An added benefit is the potential for the Township to receive future credit for jobs lost associated with any commercial building demolition.

Unique approaches to site design that promote preservation of significant resources are favored during site selection. These approaches would include:

- Dedication of substantial open space, particularly if said open space is adjacent to existing parkland
- Opportunities to preserve scenic corridors and historic roadways identified in the Township's Master Plan
- Preservation of architecturally and historically significant structures

As pointed out in the Demographics section of this Plan, Comprehensive Affordable Housing Strategy (CHAS) data provided by the US Census Bureau, there is a need to provide affordable rental units throughout Middletown based on the number of renter-occupied, cost burdened and severely cost burden households. Accordingly, landowners who have expressed a eagerness to provide affordable rental units as part of an inclusionary development have been given priority consideration.

All sites included in Middletown's Fair Share Plan exhibit several of the foregoing traits, rendering them most appropriate for construction of low and moderate income housing.

There are sites that have been considered for affordable housing that do not satisfy many of the criteria discussed above. While this does not necessarily render them "unsuitable" for

affordable housing, each site has limitations that do not bring them to the forefront at this time. A brief synopsis of these less-appropriate sites follows:

- Murray Construction – This 40 acre site is located on Red Hill Road at Exit 114 of the Garden State Parkway, and contains a massive vacant office building. Strangely, this site is situated outside the sanitary sewer service area even though it is fully developed and contains a sewer pump station. This situation could place regulatory hurdles to developing the property.
- Bamm Hollow – This sprawling 278 tract houses a golf course and is located at the western fringe of the Township along Sunnyside Road. While developable land is available here, the site is certainly remote from existing shopping, services, jobs and transportation as compared to other more suitable properties. Increased traffic through local roadways and increased trip length would result due to the site's remote location. This could have a deleterious impact on scenic and historic roadways such as Sunnyside Road and Middletown Lincroft Road. A major concern is the potential negative traffic safety impact on the Middletown Lincroft Road/Sunnyside Road intersection. It is important to recall that the Bamm Hollow tract was rezoned over five years ago in 2003 from 3 acre minimum to 5 acre minimum to reduce potential development impacts on this rural section of Middletown. Moreover, the Middletown Sewerage Authority (TOMSA) has opined that existing sewer infrastructure is insufficient to accommodate additional growth at this property, as nearby pump stations are effectively at capacity.
- DeFelice – This farmed, 11 acre site is situated on the east side of Dwight Road south of the realigned Red Hill Road intersection. All potential residents at this site would be entirely dependent on personal vehicles due to the site's remote location from transportation. Development at this site would involve the elimination of productive farmland, which has become scarce in Middletown and Northern Monmouth County. Accessibility to the site from Malus Lane and/or Holland Road provides challenges in mitigating impacts on adjacent residences.
- Stavola – This remote 17.5 acre tract is located along the Navesink River near its confluence with the Swimming River. While upland portions of the site (which are limited) can support residential development, access to these areas is severely limited by wetland transition areas and potential foraging habitats for endangered species. The ability to improve the access road to this site is questionable.
- Schlidge property (aka Tanglewood Farm) – This is a +/- 56-acre tract located along Kings Highway East at the Normandy Road intersection. Discussions with the property owner indicate that a total of 72 units would be needed in order to yield 16 affordable units, i.e. a 22% setaside. This is not a substantial affordable unit yield, and it is unclear if the Township can reasonably rely upon this site to produce 32 credits towards our housing obligation (16 units + 16 rental bonuses). Moreover, the Recreation and Open Space Element of the 2004 Master Plan identifies this property as an ideal site for active recreation. Including this site in the Fair Share Plan at this time is not recommended.
- Magnolia Lane – This is a +/- 4-acre tract west of Highway 35 comprising three lots that are not under common ownership. Magnolia Lane is a narrow, minimally improved roadway that would require a substantial capital investment in order to provide safe and efficient access to 32 for-sale residential units (24 market, 8 affordable). This is not a substantial affordable unit yield considering the potential impacts on the surrounding residential neighborhood. Including this site in the Fair Share Plan at this time is not recommended.

In terms of housing in need of rehabilitation, Middletown's aging housing stock lends itself to a continuing program of systematic upgrades to eliminate code violations. There is a

preponderance of older housing in need of rehabilitation in Bayshore neighborhoods such as North Middletown, Port Monmouth, Leonardo and Belford. North Middletown contains that highest concentration of low and moderate income households, many of whom need financial assistance to maintain a suitable living environment. Numerous "shotgun bungalow" style homes originally built for seasonal occupancy have been converted to year-round living quarters, which presents an ongoing need for weatherization and energy efficiency improvements.

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HOUSING PROJECTIONS

Following is an examination of past and anticipated residential and nonresidential development patterns for the years 1998 to 2018.

ANTICIPATED RESIDENTIAL DEVELOPMENT: 2008 - 2018

Development	Status	Housing Type	Total
Mountain Hill*	Anticipated	Multifamily	400
Taylor Lane*	Anticipated	Multifamily	340
Avaya*	Anticipated	Multifamily	375
Conifer Realty*	Approved	Multifamily	180
Steiner & Frustacci*	Anticipated	Attached & Detached	140
Municipally Sponsored Affordable*	Anticipated	Attached & Detached	122
Harmony Road Assoc.*	Approved	Multifamily	90
Gate Cottage*	Approved	Attached & Detached	60
Bamm Hollow	Anticipated	Detached	60
Atlantic Pier*	Anticipated	Attached & Detached	45
Village @ Chapel Hill*	Approved	Multifamily	40
199 Laurel Ave*	Anticipated	Multifamily	37
Misc. Minor Subdivisions	Anticipated	Detached	37
Meadowview*	Anticipated	Multifamily	35
Browns Fence*	Approved	Multifamily	24
Accessory Apartments*	Anticipated	Detached	23
Residential Over Commercial*	Anticipated	Multifamily	22
Stavola (Chapel Hill Rd)*	Approved	Duplex	19
Supportive & Special Needs Housing*	Pending	Multifamily	18
Minor Subdivisions	Pending	Detached	15
Scattered Sites Municipal Construction*	Anticipated	Attached & Detached	15
Port Monmouth Partners*	Approved	Multifamily	13
Emad Elgohail (Leonardo)*	Approved	Multifamily	12
Wallace*	Approved	Multifamily	12
Reid	Anticipated	Detached	12
DeFelice Farm	Anticipated	Detached	11
Mixed Use	Anticipated	Multifamily	10
Tretter	Anticipated	Detached	8
Weinberg	Approved	Detached	7
Conway	Approved	Detached	6
St. Catherines Church	Approved	Detached	6
Cuozzo	Pending	Detached	6
Navesink Ridge	Approved	Detached	5
Ideal Beach*	Approved	Attached	4
Bulmer	Approved	Detached	4
EZ Quick	Approved	Multifamily	3
Stavola (Monmouth Ave)	Approved	Detached	3
Mason & Jennings (Sleepy Hollow)	Approved	Detached	3
Martelli	Approved	Detached	3
Garvin	Approved	Detached	3
Accessory Apartments*	Approved	Detached	2
			Total 2,230

* Includes Affordable Housing Units

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As shown in the table above, it is anticipated that a total of 2,230 additional housing units will be completed and ready for occupancy by 2018. The overwhelming majority of anticipated and approved housing development will include housing units that are affordable to low and moderate income households. This projection has been made without specific knowledge of future housing market demand.

Annual housing unit demolitions typically represent approximately 20% of total Certificates of Occupancy (CO's) over a ten year period in Middletown. Application of this 20% demolition rate would result in a net increase of 1,784 housing units by 2018.

10-YEAR TREND OF CERTIFICATES OF OCCUPANCY AND DEMOLITION PERMITS

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	Thru 7/08	Total
CO's Issued	144	77	56	56	103	156	82	153	127	160	109	1,223
Demolitions	0	9	16	22	27	31	17	30	42	37	25	256
Net	144	68	40	34	76	125	65	123	85	123	84	967

Source: New Jersey Construction Reporter

As can be seen in the table above, a total of 1,223 certificates of occupancy for new housing units were issued between 1998 and July 2008. After deducting housing demolitions, the net increase in housing units authorized by CO is 967.

ANTICIPATED NON-RESIDENTIAL DEVELOPMENT: 2008 - 2018

Development	Type	New Non-residential SF	Status
Detwiller	Office	302	Approved
Mercurio	Office	700	Approved
St. Catherine's Church	Institutional	2,012	Approved
Kimber Petroleum Corp.	Retail	2,400	Approved
Marcolus	Office	3,000	Approved
Lincroft Presbyterian Church	Institutional	3,300	Approved
McCabe	Office	3,928	Approved
Crown Tire	Warehouse	4,510	Approved
EZ Quick	Retail	4,592	Approved
Wawa, Inc.	Retail	5,601	Approved
All American Chevrolet	Retail	5,800	Approved
OakHill Academy	Educational	8,600	Approved
Bayshore Community Health Services	Office	10,000	Approved
Navesink Country Club	Institutional	15,896	Approved
Bowen Development	Retail	24,307	Approved
AT&T	Office	1,000,000	Approved
Chase Bank	Retail	3,820	Pending
Autobacs Strauss	Retail	8,180	Pending
180 Turning Lives Around	Institutional	13,457	Pending
SFT Atlantic Highlands	Institutional	53,284	Pending
Brookdale Community College	Educational	100,000	Pending
Mountain Hill	Mixed Use	850,000	Pending
Ibrahim	Office	5,862	Construction
Medical Health Center	Office	8,000	Construction
Chinese Christian Church	Institutional	34,180	Construction

As shown in the table above, it is anticipated that a total of 2,171,731 in additional non-residential square footage will be completed by 2018. Historic and anticipated non-residential demolitions have not been considered in detail to determine the net non-residential increase in floor area. However, it is anticipated that the demolition of the Avaya office complex in Lincroft will reduce total non-residential floor area by +/- 300,000 square feet. Moreover, while AT&T has received approval for 1,000,000 additional square feet of office space, the likelihood of an expansion at their research facility within the next ten years is difficult to ascertain.

Additional non-residential development generates an associated housing need. Middletown has developed a Fair Share Plan that will ensure affordable housing opportunities are provided to low and moderate income households employed by anticipated non-residential development.

FAIR SHARE DETERMINATION

Middletown's present and prospective fair share for low and moderate income housing obligation is included in the Substantive Rules (N.J.A.C. 5:97 et seq.), and is the sum of the following three components:

1. **Rehabilitation Share** - Middletown will address the calculated rehabilitation share for affordable housing, which is the number of existing housing units as of April 1, 2000 that are both deficient and occupied by households of low or moderate income.
2. **Prior Round Obligation** - Middletown will address the prior round obligation, which is the cumulative 1987-1999 fair share obligation, i.e. Rounds 1 and 2.
3. **Growth Share** - The third round rules and associated methodologies represent a substantial shift in municipal fair share housing allocation than in the prior two rounds. These rules and methodologies use a "growth share" approach which base Middletown's affordable housing obligations on projected market-rate residential and non-residential growth. A growth share ratio has been established of one affordable housing unit among five market-rate units, and one affordable housing unit for every sixteen jobs created between 2004 and 2018. Household and employment growth projections for the Township are included in Appendix F of the Substantive Rules.

Rehabilitation Share

The Rehabilitation Share is provided by COAH for Middletown at Appendix B of the Substantive Rules. This calculation uses Census indicators including overcrowding (more than 1 person per room), lack of complete plumbing, and lack of complete kitchen facilities.

Middletown's Rehabilitation Share is 154 housing units. COAH has identified 23 rehabilitated units that are creditworthy under a prior round submission, with the potential for an additional 5 units to be considered creditworthy. Included in these credits are units rehabilitated through December 20, 2004 by the Township's CDBG Housing Improvement Program (HIP). All rehabilitated housing units have appropriate affordability controls in place and are occupied by income-qualifying households.

Rehabilitation Share	154
<u>Credits</u>	<u>-28</u>
Remaining Rehabilitation Share	126

Prior Round Obligation

The Prior Round Obligation is provided by COAH for Middletown at Appendix C of the Substantive Rules. It represents the cumulative 1987-1999 fair share obligation.

Middletown's Prior Round Obligation is 1561 housing units. The Township is eligible for credits towards this obligation based on Prior Cycle Credits, Post-1986 Credits (e.g. completed inclusionary housing, accessory apartments, scattered site construction), and completed Regional Contribution Agreements.

The majority of the supporting documentation for credits sought was provided to COAH when the Township petitioned for substantive certification in March 2000 and December 2005. Additional supporting documentation will be provided as determined necessary by COAH following the Township's anticipated petition for substantive certification, which will occur prior to December 31, 2008. A description of credits sought follows:

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Prior Cycle Credits

Middletown claims a total of **133 Prior Cycle Credits** as follows:

1. Credits Without Controls – Middletown conducted a survey of units constructed between April 1, 1980 and December 15, 1986, in accordance with COAH rules. Based upon the information collected by Middletown and submitted to COAH in March 2000, Middletown sought approval of 130 credits. In 2003 COAH reviewed the material submitted by Middletown and conducted an analysis that resulted in a determination that 101 creditworthy had been identified. As a result a letter was issued by COAH verifying this and thus Middletown is entitled to **101 prior cycle credits**.
2. Municipal Scattered Site Construction – Middletown began construction of affordable housing in 1986. COAH informed Middletown, in a letter dated July 17, 1991, that July 7, 1987 is considered the date of petition for substantive certification. Therefore, prior to this date, all affordable housing activities are considered to be credits or prior cycle credits. The two projects below were completed prior to this date and information verifying this was provided to COAH with Middletown's March 2000 submittal. All projects after that date are included as part of the Compliance Plan. As a result Middletown is entitled to **2 Prior cycle credits**.

<u>Date Sold</u>	<u>Unit Size</u>	<u>Sales Price</u>
October 30, 1985	3 Bedroom	\$45,000
January 23, 1987	3 Bedroom	\$45,000

3. Section 8 Certificates - As part of the continual effort to provide affordable housing in Middletown, HUD Section 8 Certificates have made available in Middletown. A Section 8 New Construction subsidy is attached to 26 units at the King's Row senior Citizen Development, located at 1800 Highway 35 and Cherry Tree Lane. The building was first occupied in October 1983. The subsidy allows low-income households to reduce their housing costs to 30 percent of monthly income. There are 26 units at Kings Row, which offer this income supplement to eligible low-income seniors. Affordability controls are in place on the units for 20 years. Information verifying the credit-worthiness of these units was provided to COAH with Middletown's March 2000 submittal. Section 8 certificates, which are tied to the unit such as this, are eligible for COAH credit, thus Middletown is entitled to **26 prior cycle credits**.
4. Supportive/Special Needs Housing - Middletown has identified a four bedroom Group Home at 141 Cherry Tree Farm Rd (Block 576, Lot 69). This facility has permanent affordability controls and was established and first occupied in May 1985. Middletown is entitled to **4 prior cycle credits**.

Post-1986 Credits

Middletown claims a total of **928 Post-1986 Credits** as follows

1. Scattered Sites – Middletown has completed and will take credit for scattered sites projects built after July 1987 (Middletown's First Petition date). Constructed units are both single-family detached and duplex style, and were built by a variety of non-profit groups including the Affordable Housing Alliance of Monmouth County, Habitat for Humanity, and the Middletown Housing Corporation. Additionally, the Township

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has designed and will construct a fourplex unit at Middletown claims **23 post-1986 credits for scattered site construction.**

SCATTERED SITE HOUSING CONSTRUCTION (POST 1986)

Property	Block	Lot	Affordability Controls	Sales Price
223 First Ave	694	15	Nov-87	\$54,645
8 Powell Avenue	705	5	Mar-88	\$54,600
9 Latham Avenue	840.03	54	Mar-90	\$57,700
14 Dutchess Avenue	216	8	Feb-91	\$57,700
26 Main Street	134	5	Mar-91	\$62,700
108 Chestnut Avenue	699	12	Oct-91	\$68,500
15 Wilson Avenue	30	34.01	May-93	\$57,500
221 Main Street	716	11	Mar-97	\$76,000
162 Leonardville Road	655	2	Aug-97	\$92,000
501 Atlantic Avenue	716	11	Aug-98	\$75,000
427 Seventh Avenue	716	11	Feb-99	\$75,000
61 Bayside Parkway	6	6.02	Jul-01	\$83,000
59 Bayside Parkway	6	6.01	Jul-02	\$83,000
228 Bay Avenue	333	2.01	Oct-02	\$110,000
82 Valley Dr (Leonardville Rd)	734	6.02	Jan-03	\$160,000
88 Valley Drive	734	6.01	Dec-04	\$149,000
30 Middletown Avenue	717	16	Feb-05	\$169,000
80 Valley Drive	734	6.03	May-05	\$149,900
49 Bayside Ave (4 units)	6	3	30 years (following sale)	TBD
Market St	973	5	30 years (following sale)	TBD

- Supportive/Special Needs Housing - Middletown has identified three existing and two proposed Group Home facilities totaling 25 units/beds. The facilities are identified below.

SUPPORTIVE/SPECIAL NEEDS HOUSING

Address	Block	Lot	# Beds	Affordability Controls	Status	CO Date
3 Division Street	150	4	4	Permanent	Occupied	2/19/1998
645 Brookside Drive	654	27	4	Permanent	Occupied	7/9/2001
30 Collins Avenue	279	15	4	Permanent	Occupied	1/9/2003
Green Lake Drive	972	13	8	Per 5:97-6.10	Pending	TBD
Cottage Gate	729	7	5	Per 5:97-6.10	Pending	TBD

Each facility meets (or will meet) the affordability requirements of COAH. Documentation was provided to COAH with Middletown's March 2000 and December 2003 submittal for existing facilities. Middletown claims **50 credits (25 bedroom credits and 25 rental bonus credits) for Supportive/Special Needs Housing.**

- Accessory Apartments - Middletown has one of the most effective and successful accessory apartment programs in New Jersey. To date 29 accessory apartments have been completed. All were affirmatively marketed and developed in accordance with COAH criteria. Middletown provided \$10,000.00 grants to 15 units, where the other units were established prior to the Township's adoption of an ordinance. Middletown claims **29 credits for completed accessory apartments.**

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4. Inclusionary Family Rentals - Middletown has aggressively sought to provide a variety of affordable housing opportunities and types including family rental housing.

Site	Total Units	Affordable Units	% Setaside	Rental Bonus	Status
Beacon Place	140	28	20%	28	Complete
Chapel Hill	150	30	20%	30	Complete
Park Ferry/Affordable Housing Alliance	30	6	20%	6	Complete
Regency Park	110	16	14.5%	16	Complete
Harmony Glen	90	18	20%	18	Complete
Avaya	375	75	20%	75	Proposed Site
Mountain Hill	400	80	20%	80	Proposed Site

Total 1295 253 253

The Township is seeking a waiver from the required bedroom mix at the Park Ferry site, since this 6 unit rental development contains only two bedroom units. The Township's 18 existing scattered site homes have at least three bedrooms, and many accessory apartments have one bedrooms. These other housing types can provide balance for the overall bedroom mix Township-wide for family units.

Middletown claims **506 credits for Inclusionary Family Rental units.**

5. Senior Rentals – Middletown has facilitated construction of 240 affordable senior rental units since 1986. Of the 240 units, 60 are built and occupied at the Luftman Pavilion site in Lincroft. The remaining 180 units are known as Conifer Village, which was recently completed by using a variety of funding tools and following prolonged litigation. Joseph Doria, Commissioner of the Department of Community Affairs, recently attended the grand opening ribbon-cutting ceremony for this development and commended the Township for its pro-active approach toward affordable housing construction. With 240 senior rental units (22.8%), Middletown is well below the proscribed 25% senior cap of 264 for the prior rounds. The cap is calculated as follows:

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Calculation of Prior Round Senior Cap

Prior Round Obligation	1,561
+ Rehab Share	154
<i>Subtotal</i>	<i>1,715</i>
- Prior Cycle Credits	133
<i>Subtotal</i>	<i>1,582</i>
- Rehab Credits (thru 12/04)	28
<i>Subtotal</i>	<i>1,554</i>
- Impact of 20 percent cap	0
<i>Subtotal</i>	<i>1,554</i>
- Impact of the 1,000-unit limitation	0
<i>Subtotal</i>	<i>1,554</i>
- RCA's	500
<i>Final Subtotal</i>	<i>1,054</i>
Senior Cap (Final Subtotal x .25)	264

Middletown claims **240 credits for senior rental units.**

6. Residential over Commercial - Middletown has initiated a unique program called Residential over Commercial Development. The Township has identified certain properties where single-story commercial uses exist and where the development or redevelopment of second story residential uses is feasible. Middletown offers grants towards such projects of \$16,000.00 per moderate income unit and \$24,000.00 per low income unit. One project has received approval for 12 all affordable units. Litigation held the project up for more than two years, but it has now been settled. Construction is almost complete. Middletown claims **24 credits (12 rental units and 12 rental bonus credits) for Residential over Commercial apartments.**
7. Inclusionary Family For Sale Projects - Middletown has created for sale affordable housing at inclusionary sites as follows:

Site	Total Units	Affordable Units	% Setaside	Status
Laurel Greene	124	24	19.4%	Complete
Cottage Gate*	105	13	12.3%	Under Construction
Browns Landing	24	2	8.3%	Under Construction

*Does not include 5 bedroom group home referred to elsewhere in this section

Middletown claims **39 credits for Inclusionary Family for Sale units.**

8. 100 Percent Affordable Development - Twelve affordable units were approved in 2007 at site on Highway 36 (Block 532, Lots 43 & 44). This will be a 100% affordable housing site with 7 for-sale units and 5 family rental units. The property will be owned and managed by the Affordable Housing Alliance of Monmouth County. The Alliance is actively seeking Neighborhood Preservation Balanced Housing Funds from NJHMFA for construction financing, and will enter into a PILOT agreement with the Township. The Township is seeking a waiver from the required bedroom mix at this site, since the developer will construct 6 one bedroom and 6 two bedroom units and no three bedroom units. The Township's 18 existing scattered site homes have

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at least three bedrooms, and can provide balance for the overall bedroom mix Township-wide for family units. Middletown claims **17 credits (7 for sale units, 5 rental units, and 5 rental bonus credits) for this 100% affordable development.**

Regional Contribution Agreements (RCA)

Middletown claims a total of **500 credits for completed Regional Contribution Agreements**. Middletown has completed 500 RCA units with five municipalities: Asbury Park, Red Bank, Highlands, Long Branch and Union Beach. In the case of the Union beach and Long Branch, Middletown also provided project administration.

On October 1, 2003, COAH adopted a resolution approving an RCA between Keansburg and Middletown for 149 units. This RCA was negotiated with Keansburg and approved by COAH at \$20,000.00 per unit. With the recent enacting of A-500, new RCA's have been eliminated as a mechanism to meet fair share housing obligations. Nevertheless, Middletown contends that the 149 unit RCA with existing Keansburg remains valid. While the Township reserves the right to proceed with the Keansburg RCA at \$20,000.00 per unit at a future date, **there is no reliance on these 149 RCA units for credits or as a compliance mechanism at this time.**

Prior Round Rental Obligation

Middletown has a prior round minimum rental obligation as follows:

Calculation of Prior Round Rental Obligation

Prior Round Obligation	1,561
- Prior Cycle Credits	133
Subtotal	1,428
- Impact of 20% cap	0
Subtotal	1,428
- Impact of the 1,000-unit limitation	0
Final Subtotal	1,428
Rental Obligation (Final Subtotal x .25)	357

Middletown will satisfy and exceed this obligation by providing 564 rental units as follows:

RENTAL UNITS BY DEVELOPMENT

Family Rentals		Supportive/ Special Needs Housing		Senior Rentals	
Beacon Place	28	645 Brookside Drive	4	Conifer	180
Regency Park	16	30 Collins Avenue	4	Luftman	60
Chapel Hill	30	3 Division Street	4	Total	240
Park Ave	6	Cottage Gate Group Home	5		
Harmony Glen	18	Housing & United Services	8		
Avaya	75	Total	25		
Mountain Hill	80				
Accessory Apts.	29				
Elgohail	12				
Wallace	5				
Total	299				

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PRIOR ROUND RENTAL UNITS TOTALS

	Actual Rental Units	Bonus Credits	Total Credits
Family	324	295	619
Seniors	240	0	240
Round 2 Rental Units	564	295	

Growth Share

Middletown's 2004-2018 projected growth share obligation is computed by applying a growth share ratio of one affordable housing unit among five market-rate units, and one affordable housing unit for every sixteen jobs created between 2004 and 2018. Middletown accepts the growth projections included in Appendix F of the Substantive Rules. The growth share computation is as follows:

Household Growth Projection: $1,149 / 5 = 229.8$ affordable housing units
 Employment Growth Projection: $3,731 / 16 = 233.2$ affordable housing units

Middletown's 2004-2018 growth share obligation is 463 affordable housing units

Exclusions

In determining the projected residential growth share obligation, Middletown may exclude the following from its household projection so as not to "double count" affordable and market rate units per N.J.A.C. 5:97-2.4 a:

1. Creditworthy affordable housing units which have been or are projected to be constructed after January 1, 2004; and
2. Market-rate units in an inclusionary or mixed-use development which have been or are projected to be constructed after January 1, 2004, provided these sites are zoned to produce affordable housing units at certain minimum setbacks.

COAH has developed a calculator tool that may be used to determine projected growth share obligations based on a methodology permitted in the Substantive Rules. "Workbook A," which is COAH's calculator tool, has been completed for Middletown sites and is included as an Appendix to this Plan. Workbook A exhibits the manner in which Middletown may exclude certain growth to determine both the residential and non-residential growth share obligation. These exclusions are summarized below.

**PRIOR ROUND UNITS EXCLUDED FROM
 GROWTH PROJECTIONS (CO'S ISSUED AFTER 1/1/04)**

	Affordable Units Excluded	Market Units Excluded	Total Exclusions
Supportive/Special Needs	5	0	5
Accessory Apartments	37	0	37
Municipally Sponsored	6	0	6
Inclusionary Development	381	720	1,101

Total 1,149

Since 1,149 units may be excluded from household growth projections, the only remaining growth share obligation is 233 affordable units.

Growth Share Rental Obligation Calculation

Middletown's rental requirement for the third round equals 25 percent of the growth share obligation. Middletown therefore has rental obligation ($233 \times .25 = 58.25$) of a 59 units. A total of 174 rental units are provided, and 59 bonus credits are claimed. The Township has not claimed rental bonus credits until the rental obligation is satisfied.

GROWTH SHARE RENTAL UNITS

	Actual Rental Units	Bonus Credits	Total Credits
Family	174	59	233
Seniors	0	0	0
Total Round 2 Rental Units	174	59	

FAIR SHARE PLAN

The Fair Share Plan presents a plan to address the remaining rehabilitation and growth share components following the calculated fair share allocation determined in the previous section. The Fair Share Plan will explain specific mechanisms Middletown will employ, identify potential funding sources, and set forth an implementation schedule.

Rehabilitation Share – Adjusted to 126 units

1. As a CDBG entitlement community that receives an annual formula grant directly from HUD, Middletown will continue to administer its Home Improvement Program (HIP) by rehabilitating between 10-15 substandard owner-occupied housing units per year. The Township's annual entitlement ranges between \$285,000 to \$330,000. This grant will facilitate the rehabilitation of a minimum 100 units.
2. The Township was recently awarded a Neighborhood Preservation Program (NPP) grant from the Department of Community Affairs. This grant will provide up to \$525,000 over a five year period with the principal goal of rehabilitating substandard housing stock in the North Middletown neighborhood. The NPP Program will provide funds to rehabilitate renter-occupied units as well as owner-occupied housing units. This grant will facilitate the rehabilitation of between 40 -50 units between 2008 and 2012.

Prior Round Obligation – 1561 units

As specified in the previous section, Middletown has already employed a variety of mechanisms to satisfy its prior round obligation of 1,561 affordable housing units. Three new sites have been added to the Plan in order to satisfy a prior round gap.

1. Mountain Hill – This 100+ acre site is located on the Route 35 corridor between Kanes Lane and Kings Highway East. Adjustments to the Township's Zoning Ordinance will be necessary to facilitate construction of 400 housing units at the Mountain Hill "Town Center" property. These adjustments will include:
 - a. Requiring a minimum 20% setaside to produce 80 affordable housing units;
 - b. Permitting residential units in the Light Industrial, "M-1" Zone portion of the tract;
 - c. Permitting an increase to the 20% cap on residential development;

Moreover, a Developer's Agreement will be secured to ensure all units are maintained as family rentals, and to address other site related concerns. This will entitle the Township for 1:1 rental bonus, **for a total of 160 credits towards the prior round obligation.**

2. Avaya – This 68 acre site located within the Lincroft neighborhood contains a +/- 300,000 square foot office building and expansive parking areas. The owners of the property have advised the Township that the current tenant, Avaya, will not be renewing their lease after it terminates in 2009. Considering the glut of office and research space in the immediate vicinity (e.g. 1,000,000+ s.f. of vacant office space at the former Bell Labs in Holmdel, 300,000+ s.f. of vacant office space at the Murray Office Building at Exit 114 of the Garden State Parkway), this is a prime opportunity to proactively redevelop site in order to minimize impacts on the Township.

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As with the Mountain Hill site, adjustments to the Township's Zoning Ordinance will be required to facilitate construction of 375 housing units at this site, with a minimum 20% setaside to produce 75 affordable housing units. A Developer's Agreement will be secured to ensure all affordable units are maintained as family rentals, and to address other site related concerns. This will entitle the Township for 1:1 rental bonus, **for a total of 150 credits towards the prior round obligation.**

3. Housing and United Services – Middletown will partner with Housing and United Services, a nonprofit providing support and housing for blind adults, to facilitate construction of at least 8 supportive shared living housing units. A Township-owned site has been selected along Green Lake Drive. This will provide the Township with **16 credits (8 credits per bedroom and 8 rental bonus credits) towards the prior round obligation.**

Growth Share – 408 Credits

Techniques will be employed to create the opportunity for 408 affordable housing credits towards the Township's growth share obligation, a figure which sufficiently exceeds the 233 unit obligation. "Housing Compliance Mechanism Checklists" with specific information about individual sites and compliance techniques will be submitted with the Township's Application Petition for Substantive Certification. Mechanisms will include the following:

Zoning for Inclusionary Development

The table below depicts properties to be zoned for inclusionary development **resulting in 196 credits.** Developer Agreements will be secured for rental sites since presumed densities are below 8 d/u per acre as required for Planning Area 1 (PA-1) sites, and to ensure rental bonuses. All non-rental sites will be zoned at the minimum presumed PA-1 density of 8 d/u per acre. The Stavola site has approvals for 2 affordable units.

Site	Location	Acres	Total Units	Affordable Units	Rental Bonus	Total Credits
Schwartz Property	Taylor Lane at Highway 35	30	340	96	37	133
Steiner & Frustacci	Laurel Ave	17	139	35	0	35
Meadowview	Main Street, Belford at Ferry	2	35	9	0	9
199 Laurel Assoc. (Steiner)	Corner of Laurel Ave. and Holland	5	37	9	0	9
Atlantic Pier	Highway 36 near Valley Dr.	6	45	8	0	8
Stavola (Chapel Hill Rd.)	Chapel Hill Rd. and Kings Hwy	NA	2	2	0	2
Totals			598	159	37	196

The Schwartz property, which is currently zoned R-3 for Active Adults, will be rezoned to accommodate a higher density. Any development of this site will necessitate the realignment of Taylor Lane consistent with Circulation Element of the Master Plan.

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

Municipally Sponsored and 100 Percent Affordable Developments

Middletown will identify properties within the Township that are suitable for municipally sponsored affordable housing development. This will include the development of scattered site lots, Residential over Commercial units and 100% affordable developments. The Township will provide a construction schedule in accordance with an implementation schedule pursuant to N.J.A.C. 5:97-3.2(a)4. **A total of 144 credits will be achieved through municipally sponsored and 100 percent affordable developments, including 7 rental bonuses for the Residential over Commercial program.**

Accessory Apartments

The Township will continue to operate its successful accessory apartment program. Financial incentives will be increased to property owners; a minimum of \$20,000 per unit will be provided to subsidize the creation of each moderate-income accessory apartment, and \$25,000 will be provided to subsidize the creation of each low-income accessory apartment. No more than 10% of the Township's adjusted growth share obligation will be satisfied by new accessory apartments. **A total of 23 credits will be achieved through the accessory apartment program.**

Market to Affordable Program

Middletown will establish a "market to affordable" program where the Township will pay down the cost of market-rate units anywhere in the Township and offer them in sound condition, for sale or rent, at affordable prices to low- and moderate-income households. The current real estate market provides the Township with a significant opportunity to create affordable units without adding to the Township's housing stock. **A total of 10 credits will be achieved through the market to affordable program.**

Supportive and Special Needs Housing

A 10 bedroom Supportive and Special Needs Housing facility will be constructed at the Coe property, which is located on the west side of Sleepy Hollow Lane north of Chapel Hill Road. The Township is in negotiations to preserve the balance of the site for open space purposes. **A total of 13 credits (including 2.5 bonus credits rounded up to 3) will be achieved through supportive and special needs housing.**

Other Innovative Approaches

The Township will continue its innovative Residential over Commercial program, which provides financial incentives to establish affordable housing units above commercial units at appropriate locations. Encouraging mixed commercial and residential development promotes sustainability, reduces dependency on vehicles, provides aesthetic improvements and creates a vibrant community. **A total of 22 credits will be achieved through the Residential over Commercial program, with sites to include:**

PROPOSED RESIDENTIAL OVER COMMERCIAL

Site	Location	# Affordable Units
Mogas (Elgohail)	880-882 Highway 36, Leonardo	12
Whirl	190 Main Street, Port Monmouth	2
Rosen Investments	18 Leonardville Rd., New Monmouth	8

APPENDICES

- A. SUMMARY TABLE OF ROUNDS 1, 2 AND 3 COMPLIANCE**
- B. "WORKBOOK A" COAH EXCLUSION WORKSHEETS**
- C. SITE MAPS**
- D. PLANNING BOARD RESOLUTION**
- E. TOWNSHIP COMMITTEE RESOLUTIONS**
- F. MEMO TO PLANNING BOARD AND TOWNSHIP COMMITTEE 12/11/08**
- G. AFFIDAVIT OF PUBLICATION**
- H. PETITION APPLICATION**

APPENDIX A
SUMMARY TABLE OF ROUNDS 1, 2 AND 3 COMPLIANCE

MIDDLETOWN TOWNSHIP
Amended Master Plan Housing Element & Fair Share Plan

Rounds 1 & 2
1561
Round 3
408
Total R 1, 2 & 3
1969

SUMMARY TABLE OF ROUNDS 1, 2 & 3 COMPLIANCE

	UNITS		BONUSES		Total
	Rounds 1 & 2 Units	Round 3 Units	Round 2 Bonus Units	Round 3 Bonus Units	
Inclusionary Family Rentals					
Beacon Place	28	0	28	0	56
Regency Park	16	0	16	0	32
Chapel Hill	30	0	30	0	60
Park Ferry/Affordable Housing Alliance	6	0	6	0	12
Harmony Glen	18	0	18	0	36
Schwartz/Taylor Lane	0	96	0	37	133
Avaya	75	0	75	0	150
Mountain Hill	80	0	80	0	160
Total	253	96	253	37	639
Senior Rentals					
Conifer	180	0	0	0	180
Lufman	60	0	0	0	60
Total	240	0	0	0	240
Supportive & Special Needs Housing					
645 Brookside Drive	4	0	4	0	8
30 Collins Avenue	4	0	4	0	8
3 Division Street	4	0	4	0	8
Cottage Gate Group Home	5	0	5	0	10
Coe	0	10	0	3	13
Housing & United Services	8	0	8	0	16
Total	25	10	25	3	63
Other Rentals					
Accessory Apartments	29	23	0	0	52
Elgohail (Res Over Com)	12	0	12	0	24
Mogas (Res Over Com)	0	12	0	0	12
Whirl (Res Over Com)	0	2	0	0	2
Rosen (Res Over Com)	0	8	0	0	8
Other Res Over Com (Municipally Sponsored)	0	7	0	7	14
Wallace	5	0	5	0	10
Total	46	52	17	7	122
Inclusionary For Sale					
Laurel Greene	24	0	0	0	24
Browns Landing	2	0	0	0	2
Meadowview	0	9	0	0	9
Steiner & Frustacchi	0	35	0	0	35
199 Laurel Assoc. (Steiner)	0	9	0	0	9
Atlantic Pier	0	8	0	0	8
Cottage Gate	13	0	0	0	13
Stavola Chapel Hill	0	2	0	0	2
Total	39	63	0	0	102
Other For Sale					
Scattered Sites	19	15	0	0	34
Ideal Beach (49 Bayside Ave)	4	0	0	0	4
Municipally Sponsored Other	0	115	0	0	115
Market to Affordable	0	10	0	0	10
Wallace	7	0	0	0	7
Total	30	140	0	0	170
Prior Cycle Credits					
Credits Without Controls	101	0	0	0	101
Scattered Sites (prior to 7/7/87)	2	0	0	0	2
Section 8 Certificates	26	0	0	0	26
Supportive Housing	4	0	0	0	4
Total	133	0	0	0	133
Regional Contribution Agreements					
Asbury Park (completed)	180	0	0	0	180
Long Branch (completed)	150	0	0	0	150
Union Beach (completed)	75	0	0	0	75
Highlands (completed)	50	0	0	0	50
Red Bank (completed)	45	0	0	0	45
Total	500	0	0	0	500

APPENDIX B
WORKBOOK A" COAH EXCLUSION WORKSHEETS

Workbook A: Growth Share Determination Using Published Data
(Using Appendix F(2), *Allocating Growth To Municipalities*)

COAH Growth Projections Must be used in all submissions
--

Municipality Name:

Middletown Township

Enter the COAH generated growth projections from Appendix F(2) found at the back of N.J.A.C. 5:97-1 et seq on Line 1 of this worksheet. Use the Tab at the bottom of this page to toggle to the exclusions portion of this worksheet. After entering all relevant exclusions, toggle back to this page to view the growth share obligation that has been calculated. Use these figures in the Application for Substantive Certification.

	Residential	Non-Residential
1 Enter Growth Projections From Appendix F(2) *	1,149	3,731
2 Subtract the following Residential Exclusions pursuant to 5:97-2.4(a) from "Exclusions" tab	Click Here to enter Prior Round Exclusions	
built or projected to be built post 1/1/04		
Inclusionary Development	381	
Supportive/Special Needs Housing	5	
Accessory Apartments	37	
Municipally Sponsored or 100% Affordable	6	
Assisted Living	0	
Other	0	
Market Units in Prior Round Inclusionary development built post 1/1/04	720	
3 Subtract the following Non-Residential Exclusions (5:97-2.4(b))		
Affordable units	0	
Associated Jobs		0
4 Net Growth Projection	0	3,731
5 Projected Growth Share (Conversion to Affordable Units Dividing Households by 5 and Jobs by 16)	0.00 Affordable Units	233.19 Affordable Units
6 Total Projected Growth Share Obligation		233 Affordable Units

* For residential growth, see Appendix F(2), Figure A.1, Housing Units by Municipality. For non-residential growth, see Appendix F(2), Figure A.2, Employment by Municipality.

Affordable and Market-Rate Units Excluded from Growth

Municipality Name:

Middletown Township

Prior Round Affordable Units NOT included in Inclusionary Developments Built post 1/1/04

Development Type

Number of COs
Issued and/or Projected

Supportive/Special Needs Housing

5

Accessory Apartments

37

Municipally Sponsored and 100% Affordable

6

Assisted Living

0

Other

0

Total

48

Market and Affordable Units in Prior Round Inclusionary Development

Built post 1/1/04

N.J.A.C. 5:97-2.4(a)

(Enter Y for yes in Rental column if rental units resulted from N.J.A.C. 5:93-5.15(c)5 incentives)

Development Name	Rentals? (Y/N)	Total Units	Market Units	Affordable Units	Market Units Excluded
Chapel Hill	Y	150	120	30	120
Gate Cottage	N	104	91	13	52
Regency Park	N	110	94	16	64
Harmony	Y	90	72	18	72
Park Ferry & MHA	Y	30	24	6	24
Conifer	Y	180	0	180	0
Browns Fence	Y	24	22	2	11
Wallace	Y	12	0	12	0
Elgohall	Y	12	0	12	0
Atlantic Pier	Y	45	37	8	37
Mountain Hill	Y	400	320	80	320
Avaya	Y	24	20	4	20
Total		1,181	800	381	720

Jobs and Affordable Units Built as a result of post 1/1/04 Non-Residential Development

N.J.A.C. 5:97-2.4(b)

Development Name	Affordable Units Provided	Permitted Jobs Exclusion
		0
		0
		0
		0
Total	0	0

[Return To Workbook A Summary](#)

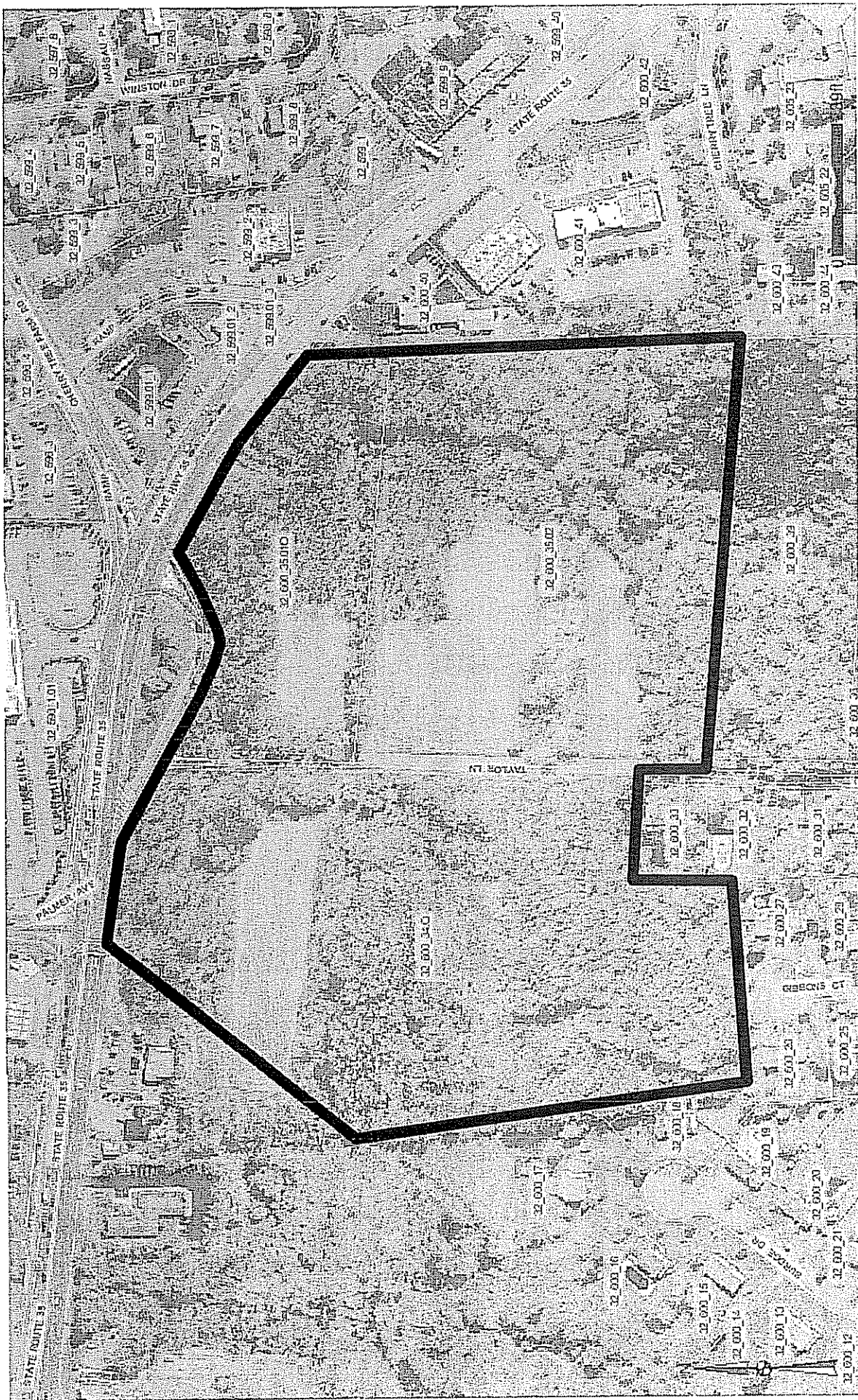
APPENDIX C
SITE MAPS

Block 825, Lots 53-69.01 & 72-81; Block 871, Lot 7.02



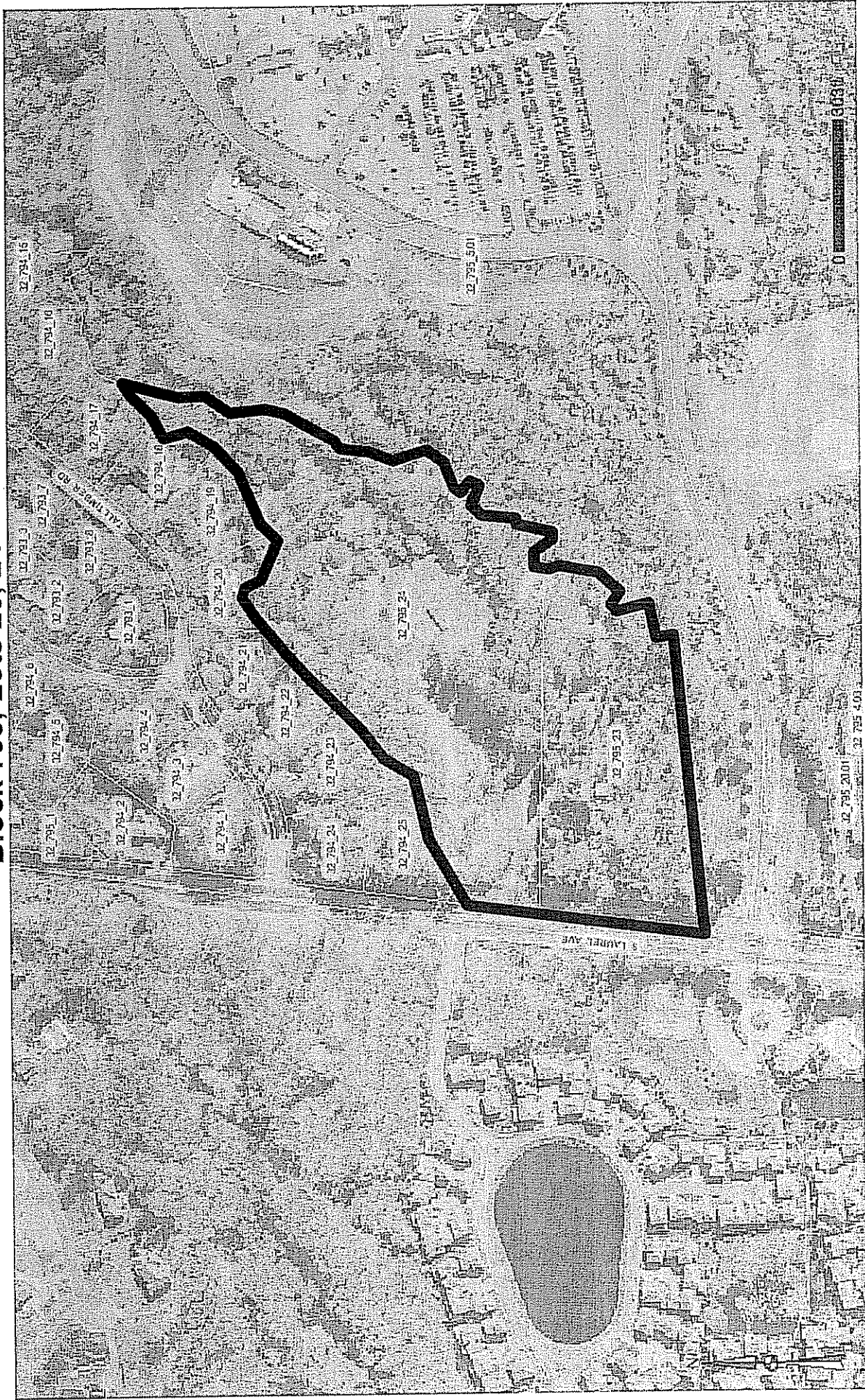
+/- 68 Acres

SCHWARTZ-TAYLOR LANE
Block 600, Lots 34, 35.01 & 35.02



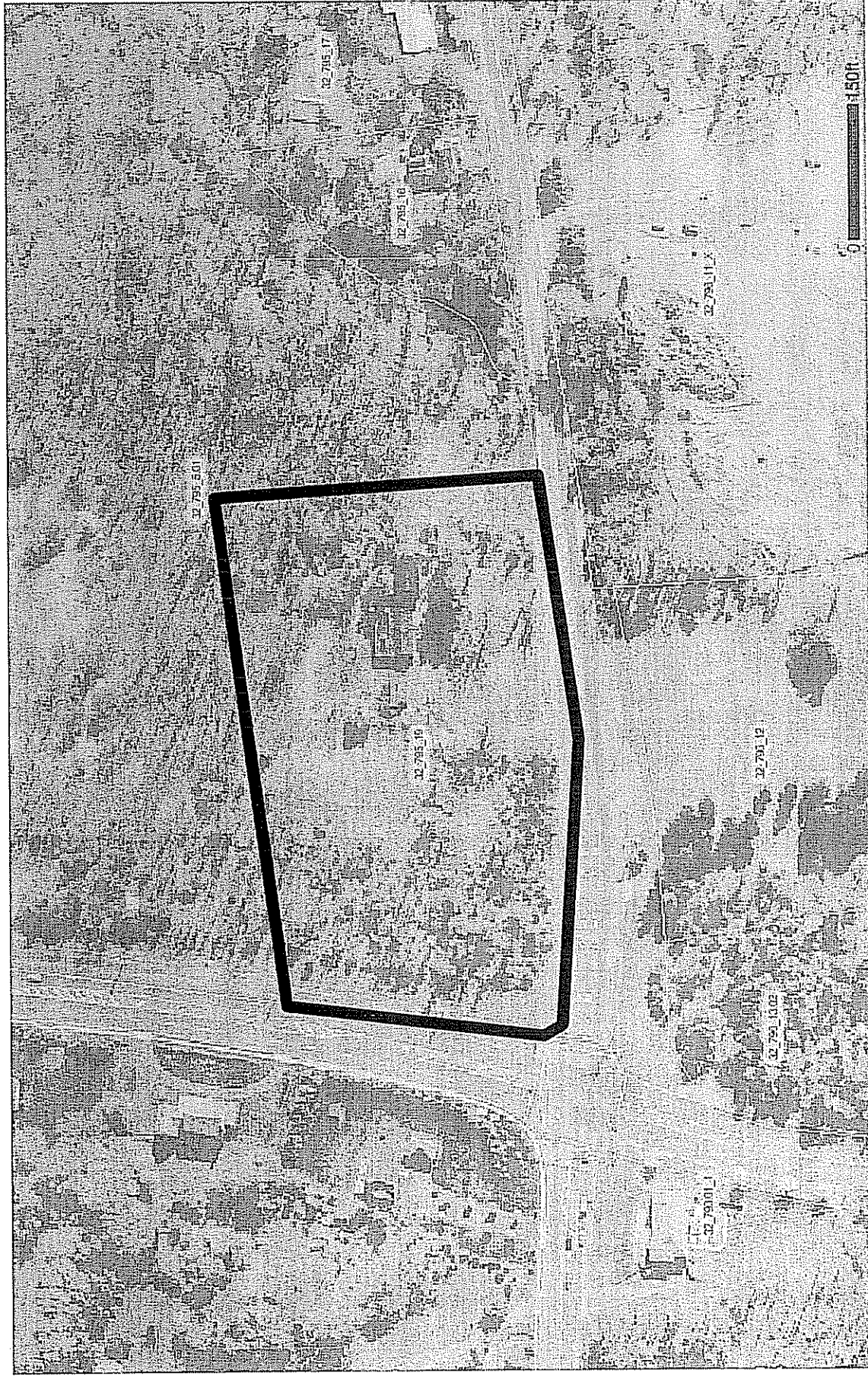
+/- 30 Acres

STEINER & FRUSTACCI
Block 795, Lots 23, 24



+/- 17 acres

**199 LAUREL ASSOCIATES
Block 795, Lot 19**

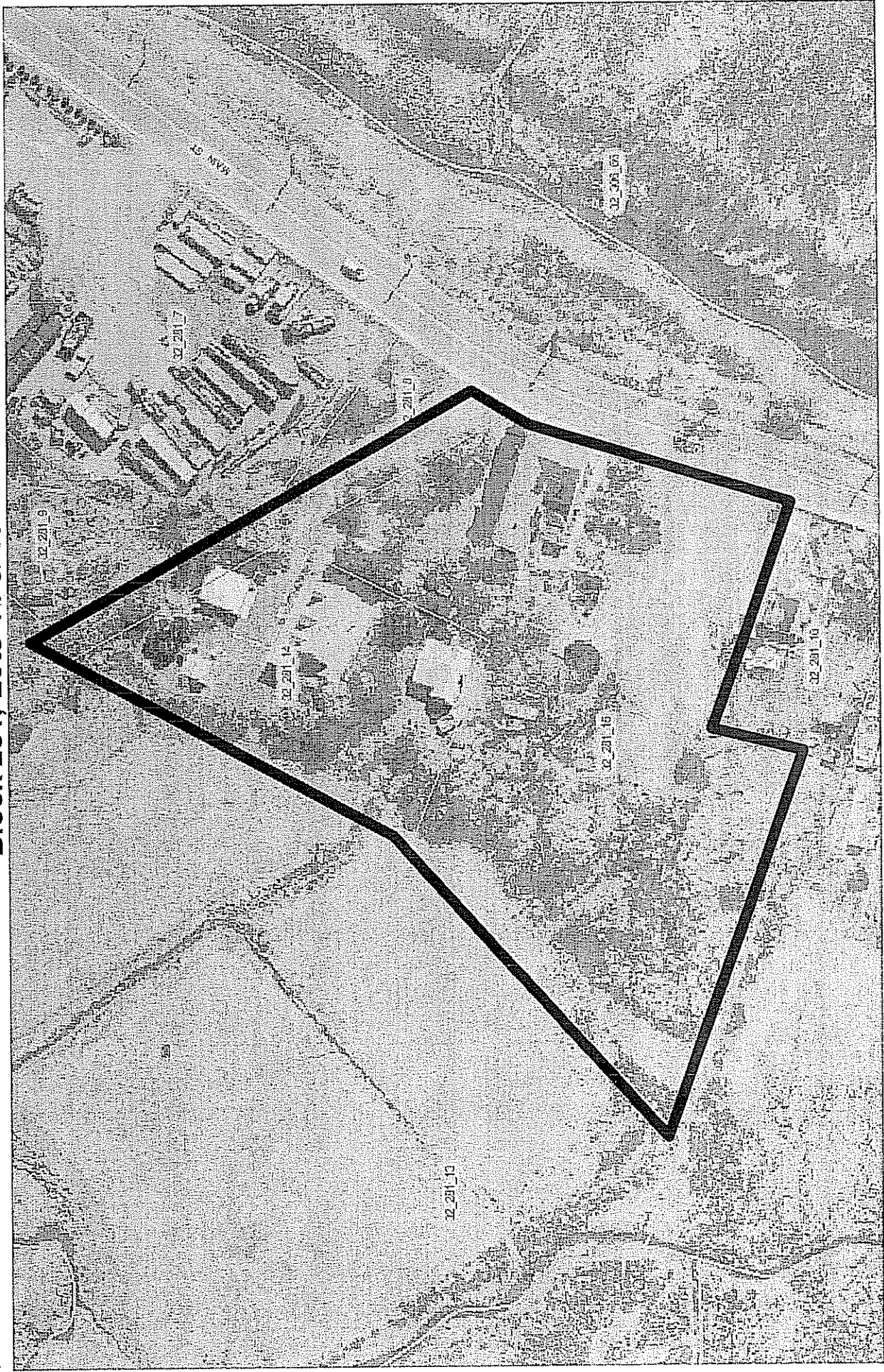


+/- 5 Acres

Block 732, Lots 10, 11, 12, 13, 21



MEADOWVIEW SITE
Block 281, Lots 14 & 15



+/- 2 Acres

0 72ft

STATE HWY 30

STATE HWY 36

WALDOY AVE

CALICHO AVE

0 225 11 225 12 225 13 225 14 225 15

0 225 16

0 225 17

0 225 18

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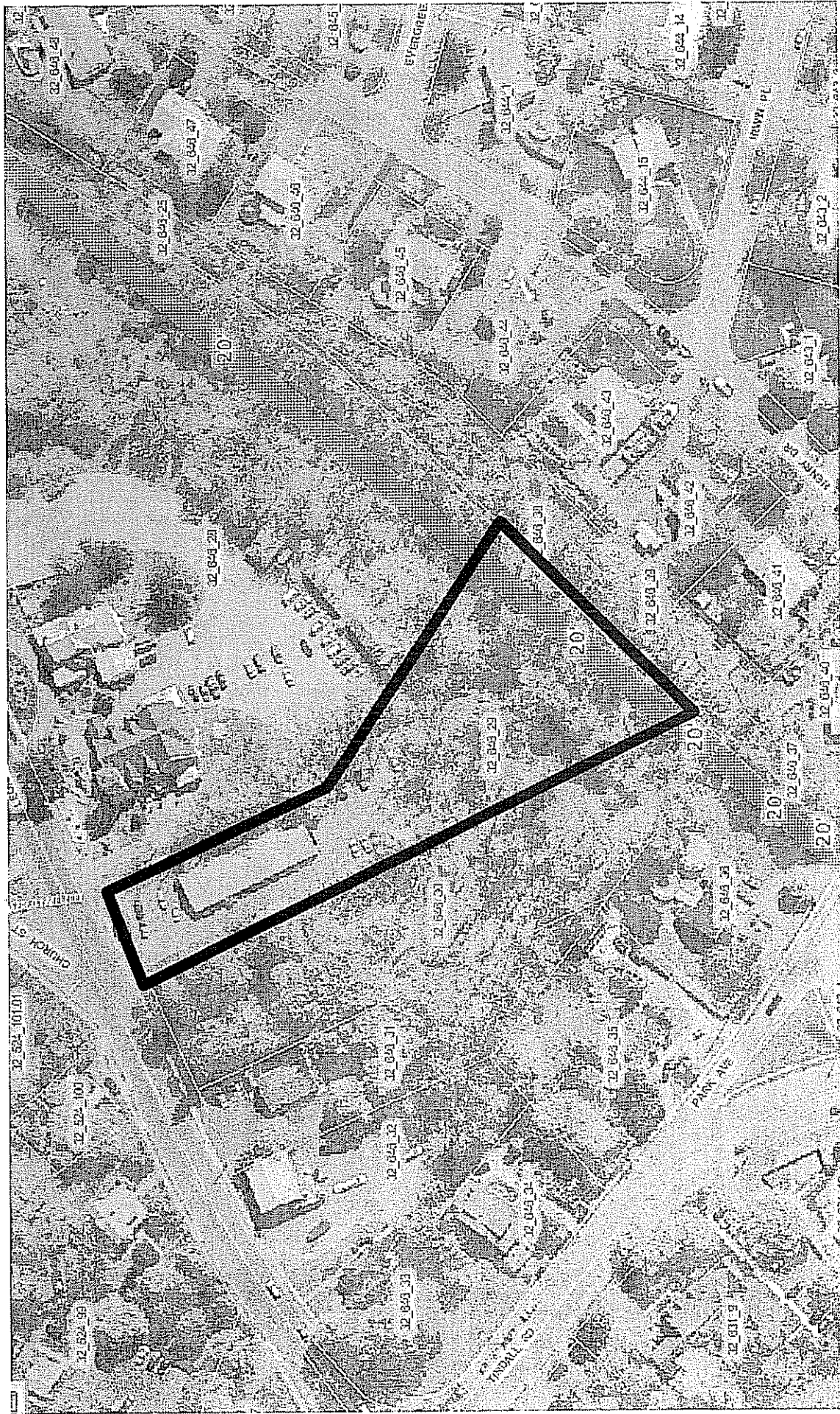
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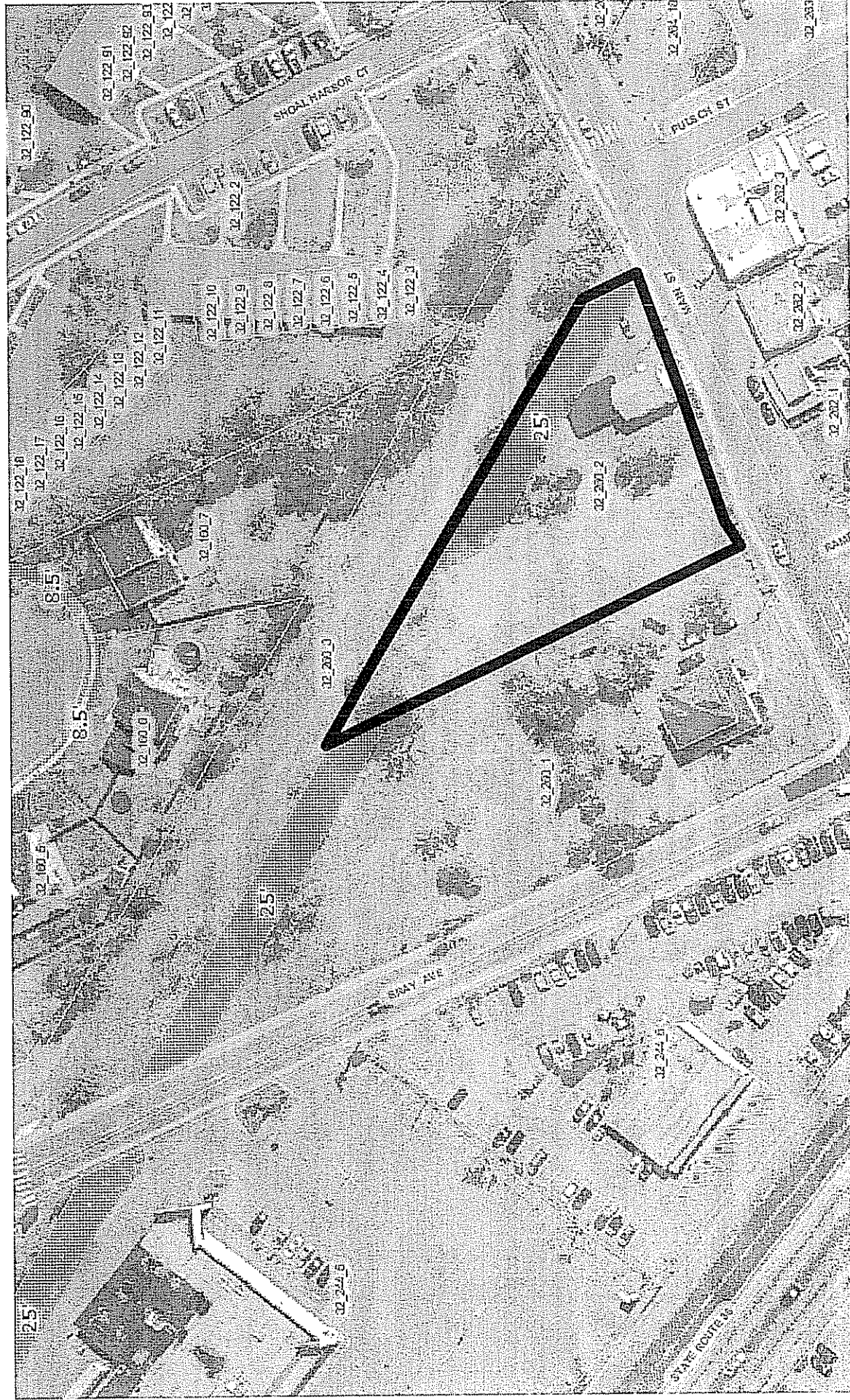
Residential Over Commercial

ROSEN INVESTMENTS
Block 646, Lot 29



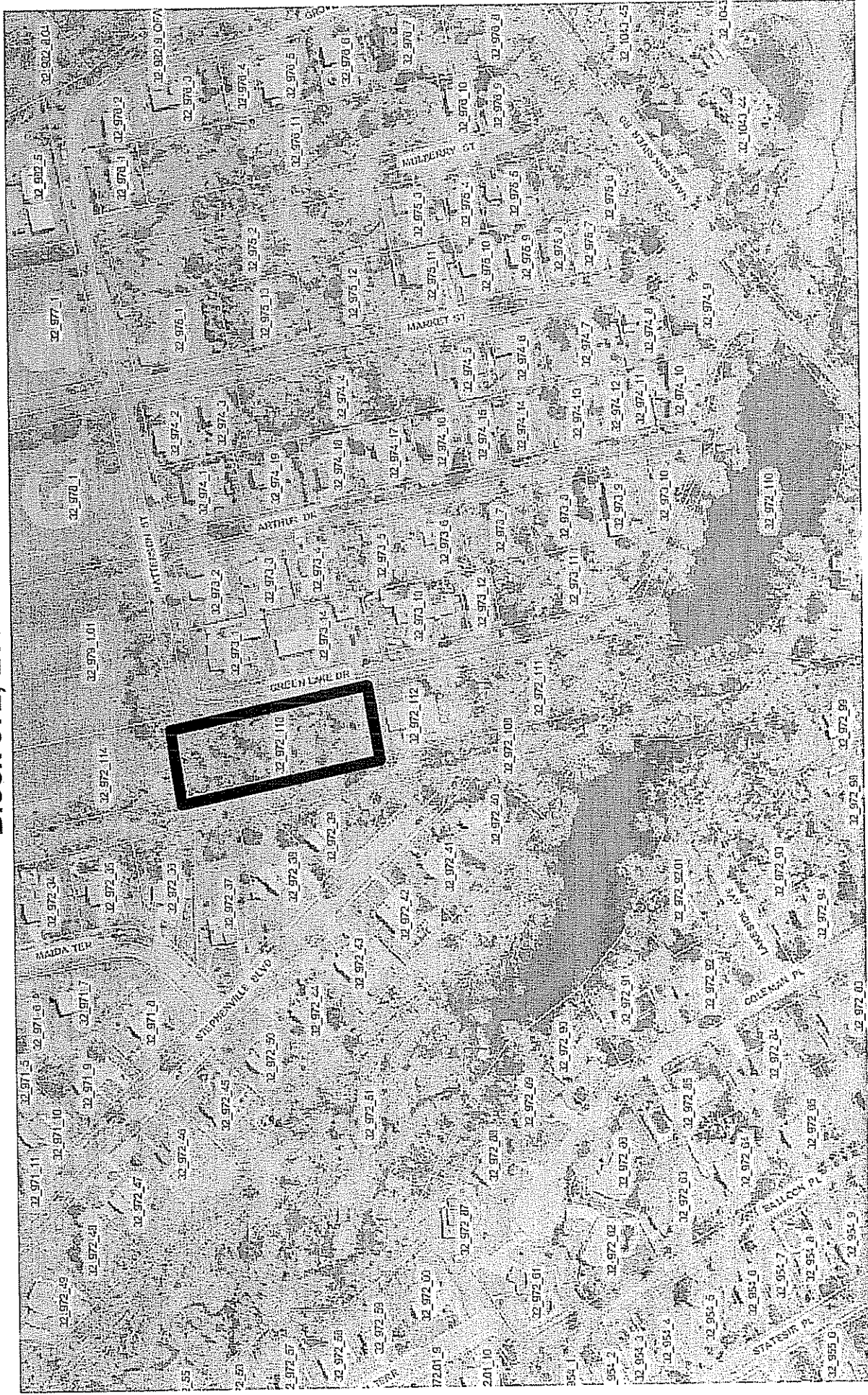
Residential Over Commercial

190 MAIN ST LLC (WHIRL)
Block 260, Lot 2



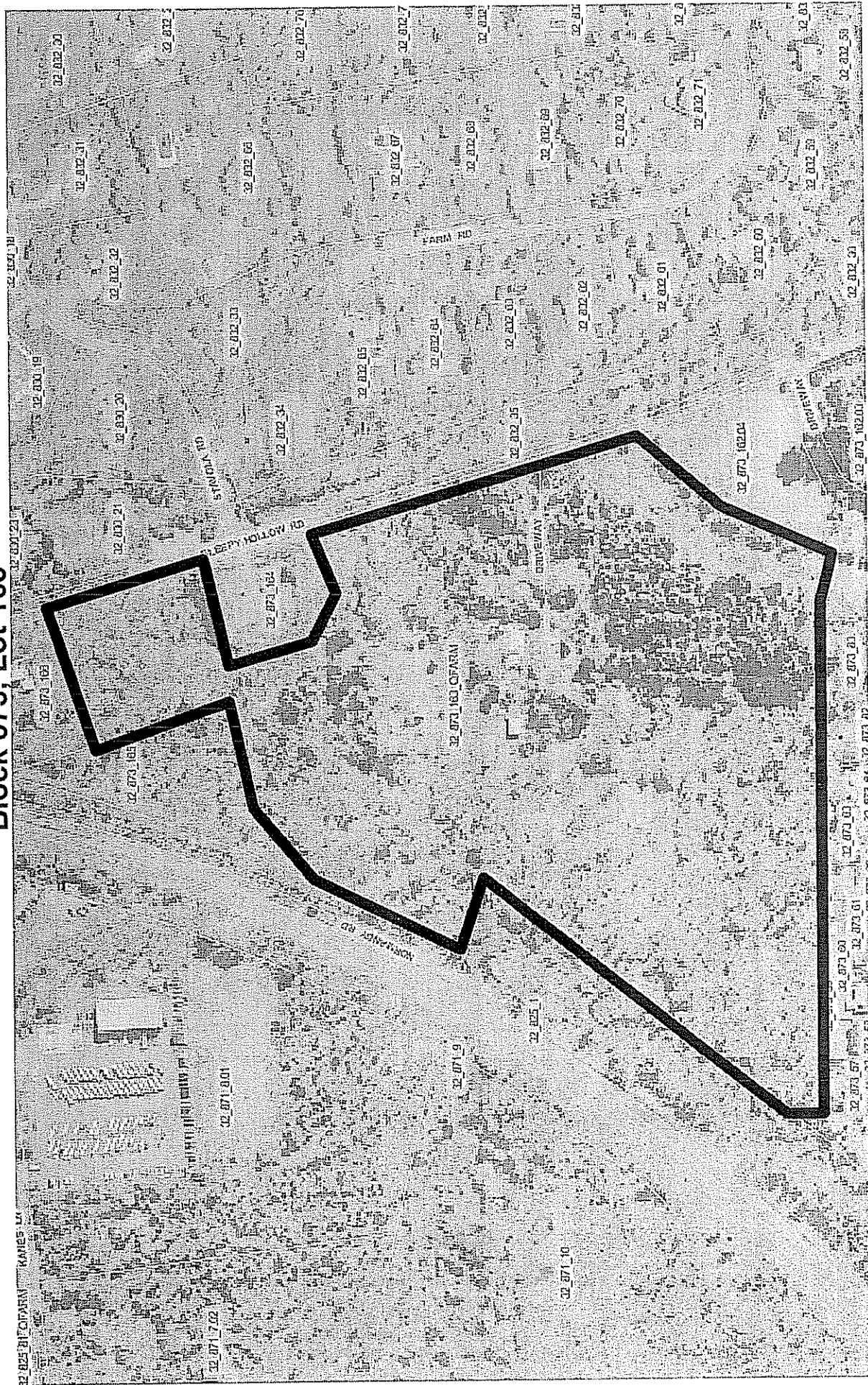
Residential Over Commercial

HOUSING & UNITED SERVICES w/MIDDLETOWN TOWNSHIP
Block 972, Lot 113



Supportive Housing (8 bedrooms)

COE
Block 873, Lot 163



Supportive Housing (10 bedrooms)

APPENDIX D
PLANNING BOARD RESOLUTION

**RESOLUTION OF THE PLANNING BOARD OF
THE TOWNSHIP OF MIDDLETOWN
ADOPTING AN AMENDED HOUSING ELEMENT
AND FAIR SHARE PLAN**

WHEREAS, the Planning Board of the Township of Middletown, County of Monmouth, State of New Jersey, adopted its current Housing Element and Fair Share Plan pursuant to N.J.S.A. 40:55D-28 on December 8, 2005; and

WHEREAS, the Middletown Township Council endorsed the Housing Element and Fair Share Plan on December 19, 2005; and

WHEREAS, the Governing Body petitioned the Council on Affordable Housing for substantive certification on December 20, 2005; and

WHEREAS, the Township of Middletown has not yet received substantive certification from the Council on Affordable Housing; and

WHEREAS, the Planning Board has determined to adopt an amended Housing Element and Fair Share Plan to comply with COAH's most recent set of procedural and substantive regulations; and

WHEREAS, upon notice duly provided pursuant to N.J.S.A. 40:55D-13, the Planning Board held a public hearing on the amended Housing Element and Fair Share Plan on December 11, 2008; and

WHEREAS, the Planning Board has determined that the amended Housing Element and Fair Share Plan is consistent with the goals and objectives of the Township of Middletown's current Master Plan and that adoption and implementation of the amended Housing Element and Fair Share Plan are in the public interest and protect public health and safety and promote the general welfare.

NOW THEREFORE BE IT RESOLVED by the Planning Board of the Township of Middletown, County of Monmouth, State of New Jersey, that the Planning Board hereby adopts the amended Housing Element and Fair Share Plan.

AYES: Brightbill, Deus, Izzo, McManus, Raisch, Rathjen

NAYS:

ABSTAIN:

ABSENT: Coleman, Fiore, Prewett, Strong



Debra Yuro, Planning Board Secretary

I, Debra Yuro, Secretary to the Township of Middletown Planning Board do hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Board on this 11th day of December, 2008.



Debra Yuro, Planning Board Secretary

APPENDIX E
TOWNSHIP COMMITTEE RESOLUTIONS

RESOLUTION NO. 08-272

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
MIDDLETOWN, MONMOUTH COUNTY, NEW JERSEY, ENDORSING THE
TOWNSHIP'S AMENDED HOUSING ELEMENT AND FAIR SHARE PLAN,
AND PETITIONING THE NEW JERSEY COUNCIL ON AFFORDABLE
HOUSING FOR SUBSTANTIVE CERTIFICATION

WHEREAS, the Planning Board of the Township of Middletown adopted an amended Housing Element and Fair Share Plan on December 11, 2008; and

WHEREAS, a true copy of the Resolution of the Planning Board adopting the amended Housing Element and Fair Share Plan is attached pursuant to N.J.A.C. 5:95-2.2(a)2.

NOW THEREFORE BE IT RESOLVED that the Township Committee of Township of Middletown, County of Monmouth, State of New Jersey, hereby endorses the amended Housing Element and Fair Share Plan as adopted by the Middletown Planning Board; and

BE IT FURTHER RESOLVED that the Township Committee of the Township of Middletown, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this Petition for Substantive Certification of the amended Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the Petition; and

BE IT FURTHER RESOLVED that Notice of this Petition for Substantive Certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this Resolution, the adopted amended Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Middletown Municipal Clerk's office located at 1 King's Highway, Middletown, New Jersey, during regular business hours for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.


HEIDI ABS, Township Clerk

RESOLUTION NO: 08-273

**TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH
RESOLUTION OF INTENT TO FUND SPENDING PLAN SHORTFALL FOR
AFFORDABLE HOUSING PROGRAMS IN THE TOWNSHIP'S FAIR SHARE PLAN**

WHEREAS, pursuant to the substantive regulations of the New Jersey Council On Affordable Housing (COAH), certain portions of the Township's amended Housing Plan Element and Fair Share Plan as adopted by the Middletown Township Planning Board on December 11, 2008 and endorsed by the Township Committee of the Township of Middletown on December 11, 2008 may require a financial commitment by the Township; and

WHEREAS, pursuant to N.J.A.C. 5:97-6.7(d)6, COAH requires a municipality to resolve to address any shortfall in the funding of its affordable housing programs as set forth in the Spending Plan and the Fair Share Plan, including its willingness to incur bonded indebtedness, if necessary, to provide the funds required for the timely implementation of the Fair Share Plan;

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Middletown, in the County of Monmouth, New Jersey, as follows:

1. To the degree that the funds required for the implementation of the Township's Fair Share Plan, as will be more particularly set forth in the Township's approved Spending Plan, are not available at the time they are needed from all available affordable housing funding sources, the Township will provide the funding needed to cover any shortfall through appropriations in the Township's annual budget, bonding, or any other legal means, with the understanding that any future affordable housing funding which becomes available may be used to reimburse the Township for the costs incurred; and


MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.


HEIDI ABS, Township Clerk

RESOLUTION NO. 08-274

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF MIDDLETOWN REQUESTING COAH TO REVIEW AND APPROVE
THE TOWNSHIP'S DRAFT SPENDING PLAN**

WHEREAS, the Township Committee of the Township of Middletown, County of Monmouth petitioned the Council on Affordable Housing (COAH) for substantive certification on March 13, 2000 and December 20, 2005; and

WHEREAS, the Township of Middletown received approval from COAH on January 11, 1995 of its Development Fee Ordinance; and

WHEREAS, the Development Fee Ordinance establishes an Affordable Housing Trust Fund that may include funds collected from development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and/or other funds collected in connection with the Township's affordable housing program];

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an Affordable Housing Trust Fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and

8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;

9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;

10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and

11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Township of Middletown has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Middletown, County of Monmouth requests that COAH review and approve Middletown's draft spending plan.


MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Bymes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.


HEIDI ABS, Township Clerk

RESOLUTION NO. 08-275

RESOLUTION OF THE COMMITTEE OF THE TOWNSHIP OF
MIDDLETOWN REQUESTING COAH TO REVIEW AND APPROVE
THE TOWNSHIP'S DRAFT DEVELOPMENT FEE ORDINANCE

WHEREAS, the Governing Body of the Township of Middletown, County of Monmouth petitioned the Council on Affordable Housing (COAH) for substantive certification on March 13, 2000 and December 20, 2005; and

WHEREAS, P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), permits municipalities that are under the jurisdiction of COAH and that have a COAH-approved spending plan to impose and retain fees on residential and non-residential development; and

WHEREAS, subject to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), N.J.A.C. 5:97-8.3 permits a municipality to prepare and submit a development fee ordinance for review and approval by the COAH that is accompanied by and includes the following:

1. A description of the types of developments that will be subject to fees per N.J.A.C. 5:97-8.3(c) and (d);
2. A description of the types of developments that are exempted per N.J.A.C. 5:97-8.3(e);
3. A description of the amount and nature of the fees imposed per N.J.A.C. 5:97-8.3(c) and (d);
4. A description of collection procedures per N.J.A.C. 5:97-8.3(f);
5. A description of development fee appeals per N.J.A.C. 5:97-8.3(g); and
6. A provision authorizing COAH to direct trust funds in case of non-compliance per N.J.A.C. 5:97-8.3(h).

WHEREAS, the Township of Middletown has prepared a draft development fee ordinance that establishes standards for the collection, maintenance, and expenditure of development fees consistent with COAH's regulations at N.J.A.C. 5:97-8 and in accordance with P.L.2008, c.46, Sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

NOW THEREFORE BE IT RESOLVED that the Township Committee of the Township of Middletown, County of Monmouth requests that COAH review and approve Middletown's development fee ordinance.

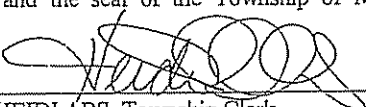
MIDDLETOWN TOWNSHIP COMMITTEE

Committee Member	Approved	Opposed	Abstain	Absent
P. Brightbill	X			
S. Byrnes	X			
T. Wilkens	X			
P. Short	X			
Mayor Scharfenberger	X			

CERTIFICATION

I, Heidi Abs, Clerk of the Township of Middletown hereby certify the foregoing to be a true copy of a resolution adopted by the Middletown Township Committee at their public organization meeting held on December 11, 2008.

WITNESS, my hand and the seal of the Township of Middletown this 11th day of December, 2008.


HEIDI ABS, Township Clerk

APPENDIX F
MEMO TO PLANNING BOARD
& TOWNSHIP COMMITTEE 12/11/08

TOWNSHIP OF MIDDLETOWN

Department of Planning and Community Development

Johnson-Gill Annex, One King's Highway

Middletown, NJ 07748-2594

Tel: (732) 615-2098 or (732) 615-2102

Fax: (732) 615-2103

E-mail: planning@middletownnj.org


Organized December 14, 1667
"Pride in Middletown"



JASON A. GREENSPAN, P.P., A.I.C.P.
Director of Planning and Community Development

MEMORANDUM

TO: Planning Board
Township Committee

FROM: Jason Greenspan, PP, AICP 
Director of Planning & Community Development

DATE: December 11, 2008

SUBJECT: Housing Element and Fair Share Plan

As you know, the Planning Board will be conducting a public hearing this evening regarding the Township's Master Plan Housing Element and Fair Share Plan (HEFSP). I suggest that the following amendments be made to the HEFSP prior to the Planning Board's adoption and Township Committee's endorsement:

1. **Elimination of Two "Growth Share" Round 3 Inclusionary Sites** – The HEFSP includes compliance tools that not only satisfy the prior-round obligation of 1,561 units, but also provides a surplus of approximately 200 affordable units for the "growth share" obligation through the year 2018. This surplus allows for the elimination of two proposed inclusionary zoning sites from the plan:
 - Schlidge property (aka Tanglewood Farm) – This is a +/- 56-acre tract located along Kings Highway East at the Normandy Road intersection. Discussions with the property owner indicate that a total of 72 units would be needed in order to yield 16 affordable units, i.e. a 22% setaside. This is not a substantial affordable unit yield, and it is unclear if the Township can reasonably rely upon this site to produce 32 credits towards our housing obligation (16 units + 16 rental bonuses). Moreover, the Recreation and Open Space Element of the 2004 Master Plan identifies this property as an ideal site for active recreation. Including this site in the Fair Share Plan at this time is not recommended.
 - Magnolia Lane – This is a +/- 4-acre tract west of Highway 35 comprising three lots that are not under common ownership. Magnolia Lane is a narrow, minimally improved roadway that would require a substantial capital investment in order to provide safe and efficient access to 32 for-sale residential units (24 market, 8 affordable). This is not a substantial affordable unit yield considering the potential impacts on the surrounding residential neighborhood. Including this site in the Fair Share Plan at this time is not recommended.

Eliminating these two sites from the HEFSP will provide the Township with 408 projected affordable credits towards the "Growth Share" housing obligation. This provides a reasonably secure surplus of 175 credits above our adjusted 233 unit obligation.

2. **General Corrections** – In addition to the foregoing matter, the following general corrections to the HEFSP are necessary:

- The "Browns Fence" inclusionary development, which is pending construction near Highway 36 and Church Street in Belford, is described as an inclusionary rental site that will provide 4 credits towards our prior round obligation. This is incorrect – Brown's Fence is a for-sale property that will provide 2 credits towards our obligation.
- A full 2:1 prior round rental bonus will be taken for the anticipated Housing & United Services supportive housing development to be located at Green Lake Drive.
- Three bonus credits will be credited towards the growth share for the anticipated supportive housing development to be located at the Coe property along Sleepy Hollow Road.
- One additional to-be-determined scattered site unit will be assigned to the prior round for a total of 19 units.
- Corrections will be made to housing projection tables to show a total 2,218 anticipated residences by 2018.
- Corrections will be made to tables showing compliance with rental unit requirements for prior rounds and for the Growth Share.
- The "Exclusions Tables" in the HEFSP Appendix will be adjusted to show correct calculations for Supportive/Special Needs Housing as 5 CO's issued instead of 13, which will allow an increase in the unit exclusions for the Avaya site.
- The "Summary Table of Rounds 1, 2 and 3 Compliance" in the HEFSP Appendix will be adjusted to reflect all of the above

c: Tony Mercantante, Township Administrator

APPENDIX G
AFFIDAVIT OF PUBLICATION

Affidavit of Publication

Publisher's Fee \$64.80 Affidavit Charge \$35.00

State of New Jersey } SS.

Monmouth/Ocean Counties

Personally appeared Manju Gupta

Of the Asbury Park Press, a newspaper printed in Freehold, New Jersey and published in NEPTUNE, in said County and State, and of general circulation in said county, who being duly sworn, depose and saith that the advertisement of which the annexed is a true copy, has been published in the said newspaper 1 times, once in each issue as follows:

12/01/08

JENNIFER L. FAGAN

A.D. 2008

NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES APRIL 14, 2013

Jennifer L. Fagan
Notary Public of New Jersey

Manju Gupta
Sworn and subscribed before me, this
1 day of December, 2008

TOWNSHIP OF MIDDLETOWN
Public Hearing
Township of
Middletown
Planning Board
and Middletown
Township
Committee
Amendment to the
Housing Element
and Fair Share
Plan
Please take notice
that pursuant to
N.J.S.A. 40:55D-13
of the Municipal
Land Use Law (the
"MLUL"), the Middle-
town Township Plan-
ning Board will con-
duct special meetings
and hold public hear-
ings at 7:00 p.m. on
December 11, 2008
and at 7:00 a.m. on
December 18, 2008
in the main court-
room at the Municip-
al Complex, 1 Kings
Highway, Middle-
town, New Jersey to
hear public comment
on a proposed
amendment to the
Housing Element and
Fair Share Plan of
the Township's Mas-
ter Plan. After public
comment, the Plan-
ning Board shall con-
sider adoption of the
amended Housing El-
ement and Fair Share
Plan. These meetings
will be held jointly
with the Middletown
Township Committee
for possible action to
endorse the amended
Housing Element the
Fair Share Plan.
The amended Hous-
ing Element and Fair
Share Plan was pre-
sented in accordance
with N.J.S.A.
40:55D-28(b)(3) of
the MLUL and the
mandatory require-
ments of a Housing
Element under the
Fair Housing Act
(N.J.S.A. 52:27D-
310) and the
Regulations of the
New Jersey Council
On Affordable Hous-

ing. The amended Housing Element and Fair Share Plan formally establishes a plan for the provision of affordable housing in Middletown Township for the first, second, and third housing cycles as those concepts are set forth in the regulations of New Jersey Title 59, N.J.A.C. 59-66-1.1 et seq. and N.J.A.C. 59-7-1.1 et seq. and is the result of an ongoing effort.

A copy of the proposed amended Housing Element and Fair Share Plan of the Master Plan is on file for public inspection at the Township Offices in the Middletown Township Municipal Building, 1 Kings Highway, Middletown, New Jersey during normal business hours. Any party interested in commenting on the amended Housing Element and Fair Share Plan may do so at the public hearing or may submit written comments to the Planning Board prior to the public hearing date.

Debra Yurk,
Secretary
Township of
Middletown Planning
Board
(609) 865717

DRAFT

AN ORDINANCE OF TOWNSHIP OF MIDDLETOWN TO ADDRESS THE REQUIREMENTS OF THE COUNCIL ON AFFORDABLE HOUSING (COAH) REGARDING COMPLIANCE WITH THE MUNICIPALITY'S PRIOR ROUND AND THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS

Section 1. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units ("affordable units") are created with controls on affordability over time and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Township of Middletown Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been endorsed by the governing body. The Fair Share Plan describes the ways Township of Middletown shall address its fair share for low- and moderate-income housing as determined by the Council on Affordable Housing (COAH) and documented in the Housing Element.
- (c) This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of N.J.A.C. 5:97, as may be amended and supplemented.
- (d) The Township of Middletown shall file monitoring reports with COAH in accordance with N.J.A.C. 5:96, tracking the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring prepared by COAH in accordance with N.J.A.C. 5:96 shall be available to the public at the Township of Middletown Municipal Building, Municipal Clerk's Office, 1 Kings Highway, Middletown, New Jersey, or from COAH at 101 South Broad Street, Trenton, New Jersey and on COAH's website, www.nj.gov/dca/affiliates/coah.

Section 2. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by COAH.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor’s deed to a class A beneficiary and the transfer of ownership by court order.

“Random selection process” means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one

applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

“Regional asset limit” means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by COAH’s adopted Regional Income Limits published annually by COAH.

“Rehabilitation” means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

“Rent” means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

“Restricted unit” means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

“UHAC” means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

“Very low-income household” means a household with a total gross annual household income equal to 30 percent or less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

Section 3. Affordable Housing Programs

Township of Middletown has determined that it will use the following mechanisms to satisfy its affordable housing obligations:

(a) A Rehabilitation program.

1. Township of Middletown’s rehabilitation program shall be designed to renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28.
2. Both owner occupied and renter occupied units shall be eligible for rehabilitation funds.
3. All rehabilitated units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner occupied units the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.

4. The Township of Middletown shall dedicate a minimum of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
 5. The Township of Middletown shall adopt a resolution committing to fund any shortfall in the rehabilitation programs for the Township of Middletown.
 6. The Township of Middletown shall designate, subject to the approval of COAH, one or more Administrative Agents to administer the rehabilitation program in accordance with N.J.A.C. 5:96 and N.J.A.C. 5:97. The Administrative Agent(s) shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of COAH. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
 7. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:97-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:97-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:97-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:97-9.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:97-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.
- (b) An Accessory Apartment program.
1. All accessory apartments shall meet the following conditions:
 - i. Accessory apartments are permitted by the Zoning Ordinance for various zoning districts, provided the units are affordable to low- and moderate-income households. Accessory apartments may be developed as low-income or moderate-income units (accessory apartments may be limited to only low- or only moderate-income units as determined in the Fair Share Plan).
 - ii. Accessory apartments shall comply with all applicable statutes and regulations of the State of New Jersey in addition to all building codes.
 - iii. At the time of initial occupancy of the unit and for at least ten years thereafter, the accessory apartment shall be rented only to a household which is either a low- or moderate-income household.

- iv. Rents of accessory apartments shall be affordable to low- or moderate-income households as per COAH and UHAC regulations.
 - v. There shall be a recorded deed or declaration of covenants and restrictions applied to the property upon which the accessory apartment is located running with the land and limiting its subsequent rental or sale of the unit and the accessory apartment.
 - vi. The appropriate utility authority must certify that there is water and sewer infrastructure with sufficient capacity to serve the proposed accessory apartment. Where the proposed location is served by an individual well and/or septic system, the additional capacity necessitated by the new unit must meet the appropriate NJDEP standards.
 - vii. The Township of Middletown accessory apartment program shall not restrict the number of bedrooms in any accessory apartment.
 - viii. No accessory apartment created as a result of this article or these regulations shall exceed the gross floor area of the existing principal dwelling on the lot.
2. The maximum number of creditable accessory apartments shall be equal to no more than 23, which is equal to 10 percent of the Township of Middletown's Third Round fair share obligation.
 3. The Township of Middletown shall designate an administrative entity to administer the accessory apartment program that shall have the following responsibilities:
 - i. The Administrative Agent shall administer the accessory apartment program, including advertising, income qualifying prospective renters, setting rents and annual rent increases, maintaining a waiting list, distributing the subsidy, securing certificates of occupancy, qualifying properties, handling application forms, filing deed restrictions and monitoring reports and affirmatively marketing the affordable accessory apartment program in accordance with the UHAC.
 - ii. The administrative entity shall only deny an application for an accessory apartment if the project is not in conformance with COAH's requirements and/or the provisions of this section/article. All denials shall be in writing with the reasons clearly stated.
 - iii. In accordance with COAH requirements, Township of Middletown shall provide at least \$25,000 per unit to subsidize the creation of each low-income accessory apartment or \$20,000 per unit to subsidize the creation of each moderate-income accessory apartment. Subsidy may be used to fund actual construction costs and/or to provide compensation for reduced rental rates.
 4. Property owners wishing to apply to create an accessory apartment shall submit to the administrative entity:
 - i. A sketch of floor plan(s) showing the location, size and relationship of both the accessory apartment and the primary dwelling within the building or in another structure;

- ii. Rough elevations showing the modifications of any exterior building façade to which changes are proposed; and
- iii. A site development sketch showing the location of the existing dwelling and other existing buildings; all property lines; proposed addition, if any, along with the minimum building setback lines; the required parking spaces for both dwelling units; and any man-made conditions which might affect construction.

(c) A Market to Affordable program.

1. A market to affordable program is established to permit the purchase or subsidization of units through a written agreement with the property owner and sold or rented to low- and moderate-income households. Subject to the provisions of 2iii below, the market to affordable programs may produce both low- and moderate-income units (the program may be limited to only low- or only moderate-income units as per the Fair Share Plan).
2. The following provisions shall apply to market to affordable programs:
 - i. At the time they are offered for sale or rental, eligible units may be new, pre-owned or vacant.
 - ii. The units shall be certified to be in sound condition as a result of an inspection performed by a licensed building inspector.
 - iii. The municipality will provide a minimum of \$25,000 per unit to subsidize each moderate-income unit and/or \$30,000 per unit to subsidize the each low-income unit, with additional subsidy depending on the market prices or rents in a municipality.
 - iv. The maximum number of creditable market to affordable units shall be equal to no more than 10 for sale units and 10 rental units or a combined total of 10 percent of the fair share obligation, whichever is greater. (Additional units may be approved by COAH if the municipality demonstrates the successful completion of its initial market to affordable program.)
3. The units shall comply with N.J.A.C. 5:97-9 and UHAC with the following exceptions:
 - i. Bedroom distribution (N.J.A.C. 5:80-26.3(b) and (c));
 - ii. Low/moderate income split (N.J.A.C. 5:80-26.3(a)); and
 - iii. Affordability average (N.J.A.C. 5:80-26.3(d) and (e)); however:
 - A. The maximum rent for a moderate-income unit shall be affordable to households earning no more than 60 percent of median income and the maximum rent for a low-income unit shall be affordable to households earning no more than 44 percent of median income; and
 - B. The maximum sales price for a moderate-income unit shall be affordable to households earning no more than 70 percent of median income and the maximum sales price for a low-income unit shall be affordable to households earning no more than 40 percent of median income.

- (c) A Residential Over Commercial Program consistent with Section 16-9.43 of the Middletown Township Planning and Development Regulations.

Section 4. Reserved

Section 5. Reserved

Section 6. Reserved

Section 7. Inclusionary Zoning

- (a) **Presumptive densities and set-asides.** To ensure the efficient use of land through compact forms of development and to create realistic opportunities for the construction of affordable housing, inclusionary zoning permits minimum presumptive densities and presumptive maximum affordable housing set-asides as follows:

1. For Sale Developments

- i. Inclusionary zoning in Planning Area 1 permits residential development at a presumptive minimum gross density of eight units per acre and a presumptive maximum affordable housing set-aside of 25 percent of the total number of units in the development;

The zoning of the [insert name of zone] zone provides for a [insert the percentage indicated in the Fair Share Plan] percent set-aside for restricted units and a density of [insert the density indicated in the Fair Share Plan] units per acre. [List specific zones in this Planning Area and the specific density and set-aside for each zone.]

2. Rental Developments

- i. Inclusionary zoning permits a presumptive minimum density of 12 units per acre and a presumptive maximum affordable housing set-aside of 20 percent of the total number of units in the development and the zoning provides for at least 10 percent of the affordable units to be affordable to households earning 30 percent or less of the area median income for the COAH region.

The zoning of the [insert name of zone] zone provides for a [insert the percentage indicated in the Fair Share Plan] percent set-aside for restricted units and a density of [insert the density indicated in the Fair Share Plan] units per acre. [List specific zones and the specific density and set-aside for each zone.]

3. Where an executed development agreement exists for affordable housing on a specific site or sites, list the sites below and identify the density and set-aside for each.

<u>SITE</u>	<u>Density (dwelling units per gross acre)</u>	<u>Setaside</u>
Avaya (Four Ponds)	5.5	20%
Mountain Hill	3	20%

Schwartz

11.5

28%

4. Additional incentives to subsidize the creation of affordable housing available to very-low income households may be negotiated and specified in a developer's or redeveloper's agreement.

- (b) **Phasing.** In inclusionary developments the following schedule shall be followed:

Maximum Percentage of Market-Rate Units Completed	Minimum Percentage of Low- and Moderate-Income Units Completed
25	0
25+1	10
50	50
75	75
90	100

- (c) **Design.** In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.
- (d) **Payments-in-lieu and off-site construction.** The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:97-6.4.
- (e) **Utilities.** Affordable units shall utilize the same type of heating source as market units within the affordable development.

Section 8. New Construction

The following general guidelines apply to all newly constructed developments that contain low- and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- (a) **Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:**
 1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
 2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units.
 3. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

- iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
 - 4. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- (b) Accessibility Requirements:
- 1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.
 - 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, or evidence that the Township of Middletown has collected funds from the developer sufficient to make 10 percent of the adaptable entrances in the development accessible:
 - A. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - B. To this end, the builder of restricted units shall deposit funds within the Township of Middletown's affordable housing trust fund sufficient to install accessible entrances in 10 percent of the affordable units that have been constructed with adaptable entrances.
 - C. The funds deposited under paragraph B. above shall be used by the Township of Middletown for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.

- D. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Township of Middletown.
- E. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14, and that the cost estimate of such conversion is reasonable, payment shall be made to the Township of Middletown's affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.
- F. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7 and N.J.A.C. 5:97-3.14.

(c) Maximum Rents and Sales Prices

- 1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and in COAH, utilizing the regional income limits established by COAH.
- 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
- 3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units. At least 10 percent of all low- and moderate-income rental units shall be affordable to households earning no more than 30 percent of median income.
- 4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
- 5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household;
 - iii. A two-bedroom unit shall be affordable to a three-person household;

- iv. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - v. A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
- i. A studio shall be affordable to a one-person household;
 - ii. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - iii. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. **Utilities.** Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

Section 9. Affirmative Marketing Requirements

- (a) Township of Middletown shall adopt by resolution an Affirmative Marketing Plan, subject to approval of COAH, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 4 and covers the period of deed restriction.
- (c) *Optional.* The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 4 comprised of Monmouth, Mercer and Ocean Counties.
- (d) The Administrative Agent designated by the Township of Middletown shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (e) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by Township of Middletown.

Section 10. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

Section 11. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Township of Middletown elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

Section 12. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.

- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

Section 13. Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

Section 14. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

Section 15. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Township of Middletown elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.

- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
1. Sublease or assignment of the lease of the unit;
 2. Sale or other voluntary transfer of the ownership of the unit; or
 3. The entry and enforcement of any judgment of foreclosure.

Section 16. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

Section 17. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;

2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

Section 18. Administration

- (a) The position of Municipal Housing Liaison (MHL) for Township of Middletown is established by this ordinance. The Middletown Township Committee shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of Township of Middletown.
 2. The person appointed as the MHL must be reported to COAH for approval.
 3. The MHL must meet all COAH requirements for qualifications, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Township of Middletown, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Township of Middletown's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required by COAH;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and

- vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by COAH.
- (b) The Township of Middletown shall designate by resolution of the Township Committee, subject to the approval of COAH, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:96, N.J.A.C. 5:97 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of COAH. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
 - 1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - 2. Affirmative Marketing;
 - 2. Household Certification;
 - 3. Affordability Controls;
 - 4. Records retention;
 - 5. Resale and re-rental;
 - 6. Processing requests from unit owners; and
 - 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 - 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

Section 19. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner,

Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Township of Middletown Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within

the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.

- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.
- (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

Section 20. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Executive Director of COAH.

REPEALER

- All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.

ORDINANCE 2006-2882

AN ORDINANCE OF THE TOWNSHIP
OF MIDDLETOWN AMENDING
THE "RESIDENTIAL OVER COMMERCIAL"
OVERLAY ZONE FOR THE DEVELOPMENT
OF AFFORDABLE HOUSING

WHEREAS, the Planning Board adopted an amended Housing Element in March 2000 along with further amendments in June and December of 2003; and

WHEREAS, the Township Committee subsequently adopted a Fair Share Plan establishing the framework for the implementation of the Housing Plan; and

WHEREAS, the Housing Plan included the proposed establishment of a "Residential over Commercial" housing program for the establishment of affordable housing; and

WHEREAS, the dwelling units created under this program will contribute to satisfying the Township's state mandated affordable housing obligation; and

WHEREAS, although the Township's Housing Plan has not yet been certified by the N.J. Council on Affordable Housing, they have verified that any units created prior to certification can be credited towards the Township's obligation.

NOW THEREFORE, BE IT ORDAINED as follows:

SECTION I

Chapter 16, Planning and Development Regulations of the Township of Middletown, Article 9 43 Residential over Commercial Development Standards, is hereby amended as follows:

16-9.43 Residential Over Commercial Development Standards

A. Purpose - The purpose of these regulations is to further the implementation of the Township's Affordable Housing Program by establishing an overlay zone for the creation of housing units above existing or proposed commercial developments. This method of providing affordable housing is provided for in the Township's amended Housing Element. At least 20% of the dwelling units constructed as a result of this ordinance shall be affordable and shall comply in all respects with the rules and regulations of the New Jersey Council on Affordable Housing as they now exists or as they may be amended.

B. The standards established herein shall be applicable to the following properties:

- | | | |
|----|------------|------------------|
| 1. | Block 962, | Lot 31 |
| 2. | Block 386, | Lots 5 & 6 |
| 3. | Block 262 | Lot 2 |
| 4. | Block 204 | Lot 1 |
| 5. | Block 265 | Lots 65, 66, 67* |
| 6. | Block 187 | Lot 24 |
| 7. | Block 443 | Lots 1 & 2 |

* The development of this property shall be in accordance with the standards specified

In Exhibit A attached hereto.

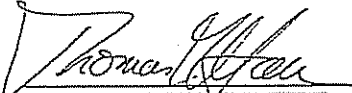
- C. The number of units permitted on each site shall be determined by the number of parking spaces available, but in no case shall exceed 20 units in any single project.
1. There shall be at least one off-street parking space for each new dwelling unit created.
 2. Where there is existing parking on a property, sufficient to provide one space for each new dwelling unit, then additional parking may be required, where feasible, by the approving authority, subject to site plan review.
 3. All applicants for the Residential over Commercial program shall be subject to site plan review by the appropriate board. The purpose of the site plan review will be to determine the following:
 - a. Adequacy of parking
 - b. Adequacy and safety of access
 - c. Overall site improvements including lighting & landscaping
 - d. Architectural improvements to the existing and/or proposed building(s)
 - e. Adequacy of drainage
 - f. Adequacy of screening and buffering from adjacent properties
- D. No building shall be permitted to exceed the maximum building height of the zone.
- E. Lot coverage requirements of the zone shall be complied with. Where the existing development already exceeds the permitted lot coverage, the creation of residential over commercial dwelling units shall not be permitted to increase the coverage any further, except as necessary to provide required parking.
- F. The maximum Floor Area Ratio for the zone shall be permitted to be increased by 20% in order to accommodate the residential units.
- G. Projects developed under this program shall limit dwelling units as follows:
1. All units shall be one bedroom for development up to 6 total units.
 2. Where more than 6 units are proposed at least 75% shall be 1 bedroom and no more than 25% may be 2 bedrooms.
 3. Where an applicant can provide two parking spaces per dwelling unit on site, all units may be two bedrooms.
- H. Setbacks
1. Additions to buildings in order to provide affordable housing units shall not extend beyond the existing building footprint, except for architectural projections as may permitted elsewhere in the zoning ordinance, balconies and stairways or where said projection will conform to the required building setback of the zone.
 2. Where completely new construction is proposed all setbacks shall conform to the appropriate zoning regulations.
- I. Prior to issuance of a building permit for any development pursuant to this ordinance, the developer/applicant shall enter into an agreement with the Township of Middletown which shall include, but be limited to, language that will

ensure the development is constructed in a manner that will satisfy the N.J. Council on Affordable Housing and the Township's Housing Plan.


BE IT FURTHER ORDAINED, that this ordinance is hereby adopted by the following vote:

PASSED ON FIRST READING: June 5, 2006

PASSED AND APPROVED: June 19, 2006


THOMAS G. HALL
MAYOR

ATTESTED BY:


HEIDI R. ABS, RMC
TOWNSHIP CLERK

Ordinance No. 2005-2851

Amendment to the Ordinance of the Township of Middletown Chapter 16 -5.31 Low and Moderate Income Housing Requirements

Section 1

Chapter 16-5.31 is hereby amended as follows:

16-5.31 A. thru Y is hereby replaced with the following:

Purpose

A. Pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., the New Jersey Council on Affordable Housing ("COAH") Middletown Department of Planning and Community Development adopted substantive regulations, N.J.A.C. 5:93-1 et seq., setting forth requirements as to affordable units within a municipality's housing element and fair share plan. The purpose of this section of the Middletown Ordinance is to ensure that these affordable units comply with applicable COAH requirements so as to ensure their credit-worthiness.

Affordable Housing Requirements

Any applicant seeking to develop one or more affordable housing units shall submit an Application for Development, including a narrative description of the overall project and the affordable housing components of the project. All affordable housing units established or created shall be deed restricted so that affordability is maintained for at least 30 years.

A. Affordable Housing Administrator

1. The Director of the Department of Planning and Community Development shall serve as the Township's Affordable Housing Administrator. The Affordable Housing Administrator shall be responsible for the monitoring and administration of the Township's affordable housing activities, including the re-sale and or re-rental of affordable housing units.
2. The Role of Middletown Township Department of Planning and Community Development - To provide assurances that low and moderate income units are created with controls on affordability over time and that low and moderate income households occupy these units, Middletown Township will enter into an agreement with the Middletown Township Department of Planning and Community Development to be responsible for insuring affordability of sales and rental units over time. The Middletown Township Department of Planning and Community Development will be responsible for those activities detailed in N.J.A.C. 5:93-9.1(a).
3. In addition, the Middletown Township Department of Planning and Community Development will be responsible for utilizing the verification and certification procedures outlined in N.J.A.C. 5:93-9.1(b) in placing households in low and moderate income units.
4. Newly constructed low and moderate income sales units will remain affordable to low and moderate income households for at least thirty (30) years. The Middletown Township Department of Planning and Community Development will require all conveyances of newly

constructed units to contain appropriate deed restriction and mortgage liens designed to ensure affordability and to preserve the units for low and moderate income households in the event of a foreclosure.

5. Housing units created through the conversion of a non-residential structure will be considered a new housing unit and will be subject to thirty (30) year controls on affordability. The Middletown Township Department of Planning and Community Development will require an appropriate deed restriction and mortgage lien.

Inclusionary Development

- A. **Affordable Housing Compliance.** Middletown's Department of Planning and Community Development will serve as the administrative agent for all affordable housing units within the Township. The Department will therefore be responsible for all responsibilities delineated in the regulations, including but not limited to: affirmative marketing of affordable housing units; soliciting, scheduling, conducting and following up on interviews with interested households; obtaining financial information to determine eligibility; providing written notification to each applicant as to the determination of eligibility or non-eligibility; creating and maintaining a referral list of eligible applicant households; furnishing attorneys or closing agents proper forms of deed restrictions and mortgages; creating and maintaining a file on each restricted unit for its control period; providing annual reports to COAH as required.

The developer of any project containing affordable housing shall pay a fee to the Township of \$1000.00 for each affordable housing unit. Said fee shall be paid in a lump sum, prior to the issuance of the first certificate of occupancy of an affordable unit. This fee can be waived where the developer is a non-profit agency and where said agency will perform the eligibility procedures described above.

- B. **The Low/Moderate Split.** Middletown's new construction or inclusionary, or growth share component will be divided equally between low and moderate income households as per N.J.A.C. 5:94 et seq.
- C. Except for inclusionary developments constructed pursuant to low income tax credit regulations:
 1. At least one-half of all units within each inclusionary development will be affordable to low income households.
 2. At least one-half of all rental units will be affordable to low income households.
 3. Pursuant to N.J.A.C. 5:93-7.2, with the exception of inclusionary developments constructed pursuant to the four percent low income tax credit regulations pursuant to the Internal Revenue Code Section 42h, at least one-third of all affordable units in each bedroom distribution (as delineated in N.J.A.C. 5:94 et seq.) shall be affordable to low income households.
- D. **Bedroom Distribution.** Inclusionary developments that are not restricted to senior citizens will be structured so that:
 1. The combination of efficiency and one bedroom units is at least ten (10) percent and no greater than twenty (20) percent of the total low and moderate income units.

2. At least thirty (30) percent of all low and moderate income units are two bedroom units.
3. At least twenty (20) percent of all low and moderate income units are three bedroom units.
4. Low and moderate income units restricted to senior citizens may utilize a modified bedroom distribution. At a minimum, the number of bedrooms will equal the number of senior citizen low and moderate income units within the inclusionary development.

E. Establishing Affordable Sale And Rental Prices For Affordable Units. The following criteria will be used in determining maximum rents and sale prices:

1. Efficiency units will be affordable to one person households.
2. One bedroom units will be affordable to 1.5 person households.
3. Two bedroom units will be affordable to three person households.
4. Three bedroom units will be affordable to 4.5 person households.
5. Four Bedroom units shall be affordable to 6 person households.
6. Median income by household size will be established by a regional weighted average of the uncapped Section 8 income limits published by HUD, as per N.J.A.C. 5:94 et seq.
7. The maximum rents of low and moderate- income units within each inclusionary development shall be affordable to households earning no more than 60 percent of median income. Developments shall have an overall affordability range of 52 percent for rental units.
8. In averaging an affordability range of 52 percent for rental units, developers and/or municipal sponsors of rental units may establish one rent for a low income unit and one rent for a moderate income unit for each bedroom distribution.
9. For both owner-occupied and rental units, the low and moderate income units will utilize the same heating source as market units within an inclusionary development.
10. Low income housing units shall be reserved for households with a gross household income less than or equal to 50 percent of the median income approved by the Council. Moderate income housing units shall be reserved for households with a gross household income less than 80 percent of the median income approved by the Council. For example, a household earning 48 percent of median income may be placed in any low income unit; however, a household earning 53 percent may not qualify for a low income unit. A household earning 67 percent of median may be placed in any moderate income housing unit. A household earning less than 50 percent of median may be placed in a moderate income housing unit. Low and moderate income units shall not be offered to households that are not income eligible without Council approval pursuant to N.J.A.C. 5:94 et seq.
11. The regulations outlined in N.J.A.C. 5:94 et seq., and 9.16 will be applicable for purchased and rental units.

F. Additional Criteria For Rental Units. For Rental units, developers and/or municipal sponsors may:

1. Establish one rent for a low income unit and one for a moderate income unit for each bedroom distribution.
2. Gross rents, including an allowance for utilities, shall be established so as not to exceed 30 percent of the gross monthly income of the appropriate household size referenced in (a) above. Those tenant-paid utilities that are included in the utility allowance shall be so stated in the lease. The allowance for utilities shall be consistent with the utility allowance approved by HUD for use in New Jersey.

G. Additional Criteria For Sale Units.

1. The initial price of a low and moderate income owner-occupied single family housing unit will be established so that after a down payment of five (5) percent, the monthly principal, interest, homeowner's insurance, property taxes (based on the restricted value of the low and moderate income unit) and condominium or homeowner fee does not exceed twenty-eight (28) percent of the eligible gross monthly income.
2. The initial price of a low and moderate income owner-occupied single family housing unit shall be established so that after a down payment of five percent, the monthly principal, interest, homeowner and private mortgage insurances, property taxes (property taxes shall be based on the restricted value of low and moderate income units) and condominium or homeowner fees do not exceed 28 percent of the eligible gross monthly income.
3. Pursuant to N.J.A.C. 5:94 et seq., Middletown shall utilize the uniform deed restriction found at N.J.A.C. 5:80-26 for all affordable units. Pursuant also to N.J.A.C. 5:80-26., a judgment of foreclosure on any of these units will not extinguish this deed restriction.
4. Middletown will require a certificate of re-occupancy for any occupancy of a low or moderate income sales unit resulting from a resale as per N.J.A.C. 5:93-9.3(c).
5. Municipal, state, non-profit and seller options regarding sale units will be consistent with N.J.A.C. 5:94 et seq. Municipal rejection of repayment options for sale units will be consistent with N.J.A.C. 5:94.
6. The continued application of options to create, rehabilitate or maintain low and moderate income sale units will be consistent with N.J.A.C. 5:94.
7. Eligible capital improvements prior to the expiration of controls on sale units will be consistent with N.J.A.C. 5:94.
8. The regulations detailed in N.J.A.C. 5:94 will be applicable to low and moderate income units that are for sale units.

H. In zoning for inclusionary developments the following is required:

1. Low and moderate income units will be built in accordance with the schedule included in N.J.A.C. 5:94:

Minimum % of Low/Moderate Income units Completed	% of Market Housing Units Completed
0	25
10	25 + 1 unit

50
75
100

50
75
90

A newly constructed unit is considered complete when the certificate of occupancy is issued.

2. A design of inclusionary developments that integrates low and moderate income units with market units is encouraged as per N.J.A.C. 5:94.

I. For Growth Share Projects Where there are fewer than six affordable housing units being created, certificates of occupancy shall be issued for the affordable units shall be issued prior to the issuance of a Certificate of Occupancy for the last market rate unit. For projects involving more than six units the schedule for completion of the affordable units shall be established as a condition of either Planning or Zoning Board approval.

J. Rehabilitated units:

1. Rehabilitated owner-occupied single family housing units that are improved to code standard will be subject to affordability controls for at least ten (10) years and all other COAH requirements
2. Rehabilitated renter-occupied housing units that are improved to code standard will be subject to affordability controls for at least ten (10) years and all other COAH requirements.

K. Rental units:

1. Newly constructed low and moderate income rental units will remain affordable to low and moderate income households for at least thirty (30) years. The Middletown Township Department of Planning and Community Development will require an appropriate deed restriction and mortgage lien subject to the Court's approval.
2. Controls on affordability on accessory apartments shall remain in effect for at least 10 years. To be eligible for a rental bonus pursuant to N.J.A.C. 5:93- 5.15, controls on affordability shall remain in effect for at least 30 years.
3. Controls on affordability on alternative living arrangements shall remain in effect for at least 10 years. To be eligible for a rental bonus (pursuant to N.J.A.C. 5:93-5.15), controls on affordability shall remain in effect for at least 30 years.

L. Section 14(b) of the Fair Housing Act N.J.A.C. 52:27D-301 et. seq. incorporates the need to eliminate unnecessary cost generating features from Middletown's land use ordinances. To further this end, Middletown shall ensure that all inclusionary projects are held in conformance with the Residential Site Improvement Standards and that the Planning Board expeditiously processes applications for development of inclusionary projects. Nothing herein shall prevent Middletown from seeking to demonstrate that more stringent standards may be appropriate. The Township will cooperate with developers of inclusionary projects to grant such reasonable variances necessary to construct inclusionary development.

M. Tenant and Occupancy Selection.

1. For those seeking housing, an "Application for Affordable Housing" shall be submitted in a form approved by the Township, to the Department of Planning and Community Development. Said application will contain basic information requests in order to determine eligibility and needs of the

applicant. The information will be then placed into a data base, maintained by the Township. This data base shall provide the basis for tenant and purchaser selection, in accordance with the rules of COAH.

2. Additional information may be required by the Township in accordance with the Uniform Housing Affordability Controls (UHAC), pursuant to N.J.A.C. 5:80 - 26.1 et seq.
3. Knowingly or intentionally filing false or misleading information in order in order to obtain an affordable housing unit shall be grounds for disqualification, even if the applicant is otherwise qualified.
4. Any Developer, property owner or applicant who knowingly or intentionally violates the rules of the Township and or the New Jersey Council on Affordable Housing, shall be subject to penalty.

N. Household Size Priorities.

- a. A household of the size provided shall have priority over households with a lesser number of persons.

One Bedroom Unit	2 persons
Two Bedroom Unit	3 persons
Four Bedroom Unit	4 or more persons

All applicants shall be classified by the Administrator in one of the priority categories set forth above on the basis of the information provided in the initial application.

- O. Calculation of re-sale and re-rental prices shall be performed by the Township Planning Department upon application by the property owner or landlord. Landlords shall pay a fee of \$50.00 to the Township when requesting re-rental calculation and new tenant selection. All calculations shall be in accordance with COAH rules.

- P. The requirements of the Uniform Housing Affordability Controls (UHAC). N.J.A.C. 5-80.26.1 et seq. shall be utilized and adhered to for the purposes of:

Limitations on indebtedness secured
by Ownership Unit/ subordination 5:80-26.8

Capital Improvements to Ownership Units 5:80-26.9

Affirmative Marketing Procedures 5:80-26.15

Household Certification and Referral 5:80-26.16

Procedures for Changing Administrative Agent 5:80-26.17

Enforcement 5:80-26.18

Appeals 5:80-26.19

Expiration of Controls Procedures 5:80-26.20 - 26

Section 2

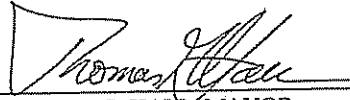
Chapter 16-5.31 BB. Waiver, is hereby re-designated as 16-5.31 R.

Chapter 16-5.31 Z. Permitted Modifications and exceptions for affordable Housing is hereby re-designated as 16-5.31 S.

Chapter 16-5.31 AA. Affordable Housing Trust Fund is hereby re-designated and 10-5.31 T. and shall be implemented in accordance with the rules of COAH, as they may be amended from time to time.

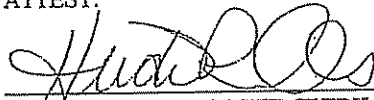
PASSED FIRST READING: December 5, 2005

PASSED AND APPROVED: February 6, 2006



THOMAS G. HALL, MAYOR
TOWNSHIP OF MIDDLETOWN

ATTEST:



HEIDI R. ABS, TOWNSHIP CLERK

DRAFT

**RESOLUTION APPOINTING MUNICIPAL HOUSING LIAISON
TOWNSHIP OF MIDDLETOWN
MONMOUTH COUNTY**

WHEREAS, the Governing Body of the Township of Middletown petitioned the Council on Affordable Housing (COAH) for substantive certification of its Housing Element and Fair Share Plan on December 20, 2005; and

WHEREAS, the Township of Middletown's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and COAH's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

WHEREAS, pursuant to N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq., the Township of Middletown is required to appoint a Municipal Housing Liaison for the administration of the Township of Middletown's affordable housing program to enforce the requirements of N.J.A.C. 5:94-7 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, the Township of Middletown has amended **Chapter [insert number]** entitled **[insert title of Chapter in Code]** to provide for the appointment of a Municipal Housing Liaison to administer the Township of Middletown's affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Township of Middletown in the County of Monmouth, and the State of New Jersey that Jason A. Greenspan, PP/AICP, is hereby appointed by the Governing Body of Township of Middletown as the Municipal Housing Liaison for the administration of the affordable housing program, pursuant to and in accordance with Sections **[insert numbers]** of the Township of Middletown's **[insert name of code]** Code.

Heidi Abs
Municipal Clerk

DRAFT
ORDINANCE NO.: _____

AFFORDABLE HOUSING DEVELOPMENT FEE ORDINANCE
OF THE TOWNSHIP OF MIDDLETOWN

1. Purpose

- (a) In Holmdel Builder's Association v. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985, N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the rules adopted by the New Jersey Council on Affordable Housing's (COAH).
- (b) Pursuant to P.L. 2008, c. 46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have an approved spending plan may retain fees collected from non-residential development.
- (c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance with P.L. 2008, c. 46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic Requirements

- (a) The Township of Middletown shall not impose development fees on any applicant pursuant to this ordinance until COAH or a Court has approved the Development Fee Ordinance pursuant to N.J.A.C. 5:96-5.1, except that residential fees may be collected pursuant to the previously approved fee ordinance until such time as this ordinance takes effect, and non-residential fees shall be collected in accordance with the Statewide Non-Residential Development Fee Act, N.J.S.A. 40:55D-8.1 et seq.
- (b) The Township of Middletown shall not spend development fees until COAH or a Court has approved a plan for spending such fees in conformance with N.J.A.C. 5:97-8.10 and N.J.A.C. 5:96-5.3.

3. Definitions

- (a) The following terms, as used in this ordinance, shall have the following meanings:
 - i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project, or a 100 percent affordable development.
 - ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in the State.
 - iii. "Development fee" means money paid by a developer for the improvement of property as permitted under N.J.A.C. 5:97-8.3

- iv. “Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.
- v. “Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L. 1973, c.123 (C. 54:1-35a through C. 54:1-35c).
- vi. “Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development Fees

(a) Imposed Fees

- i. Within all zoning districts in the Township of Middletown, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one half percent (1.5%) of the equalized assessed value for residential development, provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers shall be required to pay a development fee of six percent (6%) of the equalized assessed value (EAV) for each additional unit above that permitted by right which may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

(b) Eligible exactions, ineligible exactions and exemptions for residential development

- i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
- ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
- iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be

calculated on the increase in the equalized assessed value of the improved structure.

- iv. Nonprofit organizations which have received tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.
- v. Federal, state, county and local governments shall be exempted from paying a development fee.
- vi. The owner of a residential unit who rebuilds when the owner's existing dwelling unit was destroyed due to fire, flood or other natural disaster shall be exempt from paying a development fee.

5. Non-Residential Development Fees

(a) Imposed fees

- i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half percent (2.5%) of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half percent (2.5%) of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
- iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and one-half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly-improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

(b) Eligible exactions, ineligible exactions and exemptions for non-residential development

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and one-half percent (2.5%) development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- iii. Non-residential developments shall be exempt from payment of non-residential development fees in accordance with the exemptions required pursuant to P.L. 2008, c 46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L. 2008, c. 46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Township of Middletown as a lien against the real property of the owner.

6. Collection procedure

- (a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the Township's Construction Official responsible for the issuance of a building permit.
- (b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- (c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- (d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- (e) The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- (f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee, and thereafter notify the developer of the amount of the fee.
- (g) Should the Township of Middletown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L. 2008, c. 46 (C 40:55D-8.6).
- (h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.
- i) Appeal of development fees

- 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Township of Middletown. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
- 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Township of Middletown. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing Trust Fund

- (a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Township's Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- (b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. Payments in lieu of on-site construction of affordable units;
 2. Developer-contributed funds to make ten percent (10%) of the affordable entrances in a townhouse or other multistory attached development accessible;
 3. Rental income from municipally-operated units;
 4. Repayments from affordable housing program loans;
 5. Recapture funds;
 6. Proceeds from the sale of affordable units; and
 7. Any other funds collected in connection with the Township of Middletown's affordable housing program.
- (c) Within seven days from the opening of the trust fund account, the Township of Middletown shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the Township's banking institution, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- (d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or the Court.

8. Use of Funds

- (a) The expenditure of all funds shall conform to a spending plan approved by COAH or the Court. Funds deposited in the housing trust fund may be used for any activity approved by COAH or the Court to address the Township of Middletown's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new

affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.

- (b) Funds shall not be expended to reimburse the Township of Middletown for past housing activities.
- (c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
 - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- (d) The Township of Middletown may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- (e) No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- (a) The Township of Middletown shall complete and return to COAH all monitoring forms included in the annual monitoring report related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, and funds from the sale of units with extinguished controls barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Township of Middletown's housing program, as well as to the expenditure of revenues and implementation of the plan approved by the court. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing Collection of Fees

- (a) The ability of the Township of Middletown to impose, collect and expend development fees shall expire with its substantive certification or judgment of compliance unless the Township of Middletown has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned COAH for substantive certification, or brought a declaratory relief action in Court pursuant to N.J.S.A. 52:27D-313 and has received approval of its development fee ordinance by COAH or a Court. If the Township of Middletown fails to renew its ability to impose and collect development fees prior to the expiration of its substantive certification or judgment of compliance, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L. 1985, c.222 (C.52:27D-320). The Township of Middletown shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or its judgment of compliance, nor shall the Township of Middletown retroactively impose a development fee on such a development. The Township of Middletown shall not expend development fees after the expiration of its substantive certification or its judgment of compliance.

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee and the Township of Middletown, this Ordinance shall become effective upon final passage and publication as provided by law.

TOWNSHIP OF MIDDLETOWN

By: _____
Gerard Scharfenberger, Mayor

Attest:

Heidi Abs, Clerk

ORDINANCE # 2005-2850

AN ORDINANCE ESTABLISHING CHAPTER 16-9.45 OF THE LAND
USE AND DEVELOPMENT ORDINANCE OF THE TOWNSHIP OF
MIDDLETOWN TO FACILITATE THE PROVISION OF
AFFORDABLE HOUSING IN THE THIRD HOUSING CYCLE IN
CONNECTION WITH RESIDENTIAL AND NON-RESIDENTIAL
GROWTH AND DEVELOPMENT

WHEREAS, the New Jersey Supreme Court and New Jersey Legislature have recognized in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) ("Mount Laurel II") and the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq. ("FHA") that New Jersey municipalities have responsibilities concerning the need to provide affordable housing for low and moderate households; and

WHEREAS, the Legislature conferred upon the New Jersey Council on Affordable Housing ("COAH") "primary jurisdiction for the administration of housing obligations in accordance with sound regional planning considerations in this State" (N.J.S.A. 52:27D-304 (a)); and

WHEREAS, in Mount Laurel II, the New Jersey Supreme Court ruled that municipalities had the power to address the Mount Laurel responsibilities the Court had created through "inclusionary devices" and rejected the notion "that inclusionary measures amount to a taking without compensation" (see Mount Laurel II at 271); and

WHEREAS in Mount Laurel II, the Supreme Court also stated, "Zoning does not require that land be used for maximum profitability and, on occasion, the goals may require something less" (see Mount Laurel II at 274 n. 34); and

WHEREAS, in the case entitled Holmdel Builders Association v. Township of Holmdel, 121 N.J. 550, 582 (1990), the Supreme Court referred to its Mount Laurel II decision and emphasized that in designing inclusionary ordinances, "...no density bonuses, compensatory benefits, or subsidies were specifically required"; and

WHEREAS, in view of the principles established by the Supreme Court in these landmark decisions, COAH adopted substantive regulations that authorized municipalities to impose a set aside, without any density bonuses or other compensatory benefits, pursuant to which municipalities could require residential developers to construct one affordable unit for every eight market units the developer constructed (N.J.A.C. 5:94-4.4 (a)); and

WHEREAS, COAH specifically stated that "a municipality may adopt a zoning ordinance requiring a maximum of one for every eight market-rate residential units be affordable to low and moderate income households, as long as the zoning has not allowed an increase in density to accommodate affordable housing"; and

WHEREAS, similarly, COAH has also authorized municipalities to require nonresidential developers to produce affordable housing without any enhancement or

ORDINANCE # 2005-2850

compensatory offsetting benefit based upon a formula that would require the production of one affordable units for every 25 jobs projected to be created; and

WHEREAS, the Township of Middletown wishes to ensure that as developers build residential and nonresidential projects, they provide affordable housing consistent with COAH's regulations and policies described above, policies soundly rooted in Supreme Court precedent; and

WHEREAS, implementation of these policies will ensure that as the Township grows with housing affordable to the middle and upper class, it will also grow with housing affordable to lower income households and that as nonresidential development occurs, it will also provide housing affordable for lower income workers (see Mount Laurel II at 211); and

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Township Committee of the Township of Middletown, County of Monmouth, and State of New Jersey that Chapter 16-9.45, of the Zoning Ordinance of the Township of Middletown and are hereby amended as follows:

Section 1. – Legislative Intent

The legislative intent set forth in the above preambles and recitals are hereby adopted and incorporated by reference herein as set forth herein at length.

Section 2. – The following new section 16-9.45 is hereby added to the Middletown Township Land Use and Development Ordinance:

Growth Share Regulations

A. Residential Development. Except as otherwise provided below, in those circumstances where a developer develops land for residential proposes and receives no right to increased density or other compensatory bonus the developer shall reserve (11.11%) of said units for low and moderate households provided that the developer secures the right to construct at least eight (8) units. In the event 11.11 percent of the total units should result in a fraction equaling .5 percent or greater, the affordable housing obligation shall be rounded to the next higher number. Affordable housing shall be as defined under the FHA and COAH's regulations.

B. Nonresidential Development. Except as otherwise provided below, in those circumstances where a developer develops land for nonresidential proposes and receives no right to an increased FAR or other compensatory bonus, the developer shall provide one nonage-restricted affordable unit for every 25 jobs projected to be created by the ordinance. The calculation of the number of jobs and employment opportunities shall be in accordance with Appendix E to N.J.A.C. 5:94-1, et seq. entitled "UCC Use Groups for Projecting and

ORDINANCE # 2005-2850

Implementing Nonresidential Components of Growth Share”.

C. For all Residential Development the applicant shall satisfy its affordable housing production obligation(s) through on-site housing production in connection with the residential project, or one of the mechanisms permitted in COAH's rules. The other mechanisms permitted with COAH's rules, including (a) the purchase of an existing market-rate home at another location in the community and its conversion to an affordable price-restricted home in accordance with COAH's criteria, regulations and policies, (b) the funding of a Regional Contribution Agreement (“RCA”), (c) participation in gut rehabilitation and/or buy-down/write-down, buy-down/rent-down programs and/or (e) contributing to the Housing Trust Fund at a rate of 1% of the residential development's equalized assessed value and shall only be considered with Middletown Township Committee's advance written permission for those instances when the Committee deems such a mechanism to be in the best interests of the Township. Evidence of the planned method of compliance shall be produced to the Planning or Zoning Board at the time of application filing and shall be a condition of all “completeness” determinations. Thereafter, evidence of satisfaction of affordable housing compliance shall be an automatic, essential and non-severable condition of all approvals that must be satisfied prior to the issuance of the project's first building permit.

D. For all Commercial Development the applicant may satisfy its affordable housing production obligation(s) through the mechanisms permitted in COAH's rules including, with Middletown Township Committee's advance written permission (a) on-site housing production in connection with a residential component of the project, (b) the purchase of an existing market-rate home at another location in the community and its conversion to an affordable price-restricted home in accordance with COAH's criteria, regulations and policies, (c) the funding of a Regional Contribution Agreement (“RCA”), (d) participation in gut rehabilitation and/or buy-down/write-down, buy-down/rent-down programs, and/or (e) contributing to the Housing Trust Fund at a rate of 2% of equalized assessed value for commercial development. Evidence of the planned method of compliance shall be produced to the Planning or Zoning Board at the time of application filing and shall be a condition of all “completeness” determinations. Thereafter, evidence of satisfaction of affordable housing compliance shall be an automatic condition of all approvals that must be satisfied prior to the issuance of the project's first building permit.

E. Low and Moderate Income Split and Compliance with COAH's Rules.

The affordable unit(s) to be produced pursuant to Paragraphs A, B, C and D (above) shall be available to a low income individual or household should only one affordable unit be required. Thereafter, each of the units shall be split evenly between low and moderate

ORDINANCE # 2005-2850

income individuals and households except in the event of an odd number in which event the unit shall be a low income unit. All affordable units shall strictly comply with COAH's Rules and policies including, but not limited to, phasing, bedroom distribution, controls on affordability, range of affordability, affirmative marketing, income qualification, etc. It shall be the developer's responsibility, at its cost and expense, to arrange for a COAH and Township approved qualification service to ensure full COAH compliance and file such certifications, reports and/or monitoring forms as may be required by COAH or the Court to verify COAH compliance of each affordable unit.

F. Design Options. In order to create a more realistic opportunity for the creation of affordable housing units on-site, The Planning Board or Zoning Board of Adjustment may permit the relaxation or reduction of certain standards including but not limited to the following:

1. A reduction in the minimum lot size to 60% below the zoning requirement and a reduction of the corresponding bulk standards, except that in no case shall a lot be less than 5000, sq. ft. and on no lot shall the bulk standards be reduced to less than 60% of the ordinance requirement.
2. Allowing the development of a duplex or two-family unit on a single lot as long as the lot meets the minimum for the zone and as long as the architectural design of the structure is consistent with the remainder of the development.

G. Exemption. Residential inclusionary projects constructed in the affordable housing districts identified in the Township's COAH approved first or second or third round Housing Element and Fair Share Plan shall be exempt from the requirements of this Ordinance. However, a nonresidential growth share responsibility in accordance with this Ordinance shall be attributable to all nonresidential uses constructed in mixed-use and/or nonresidential projects in the Township's existing affordable housing districts.

H. Right to Greater Set-Aside If Compensatory Benefit

As to residential developers, nothing herein shall affect the Township's ability to generate more affordable housing than the one for eight standard set forth above in the event that the developer secures a density bonus or other compensatory benefit, acceptable to the developer and Township, through zoning or through a use variance. As to nonresidential developers, nothing herein shall affect the Township's ability to generate more affordable housing than the one affordable unit for every 25 job standard set forth above in the event that the developer secures an increased FAR or other compensatory benefit acceptable to the developer and Township, through zoning or through a use variance.

ORDINANCE # 2005-2850

Section 3. – Severability.

If any paragraph, section, subsection, sentence clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining paragraphs or sections hereof.

Section 4. – Inconsistency.


All ordinances or parts or ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section 5. – Effective Date.

The Ordinance shall take effect upon final passage and publication according to law and filing with the County Planning Board in accordance with N.J.S.A. 40:55D-16.

PASSED FIRST READING: December 5, 2005

PASSED AND APPROVED: February 6, 2006


THOMAS G. HALL, MAYOR
TOWNSHIP OF MIDDLETOWN

ATTEST:


HEIDI R. ABS, TOWNSHIP CLERK

MIDDLETOWN TOWNSHIP DRAFT SPENDING PLAN 12/08

OVERVIEW

Middletown Township's Spending Plan reflects the latest amendments to COAH's rules. In addition to demonstrating how the Township's affordable housing trust funds will be expended over the next ten years, the spending plan reflects the implementation schedule of the fair share plan. The spending plan serves as the basis for demonstrating realistic opportunity of each of the Township's proposed affordable housing options that relies on affordable housing trust funds as well as a basis for any affordable housing delivery mechanisms that are the subject of an implementation schedule.

Middletown will be required to spend all existing balances as of July 17, 2008 within four years of the date that this spending plan is approved by COAH. To ensure timeliness of fund expenditures, Middletown will spend or contractually commit newly collected funds within three years from the calendar year in which those funds are collected. Proposed spending may be through myriad mechanisms including but not limited to a revolving loan, no-interest loans, forgivable loans, below-market loans, bridge loans, a hybrid loan and grant program, etc.

The spending plan is organized into five sections that address the information required by N.J.A.C. 5:97-8.10. COAH will utilize the actual collections, expenditure and balances reported in the Township's affordable housing trust fund monitoring via the State's Computer Tracking and Monitoring (CTM) system.

INTRODUCTION

Middletown Township, Monmouth County, has prepared a Housing Element and Fair Share plan that addresses its regional fair share of the affordable housing need in accordance with the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Fair Housing Act (N.J.S.A. 52:27D-301) and the regulations of the Council on Affordable Housing (COAH) (N.J.A.C. 5:97-1 et seq. and N.J.A.C. 5:96-1 et seq.). A development fee ordinance creating a dedicated revenue source for affordable housing was approved by COAH on January 11, 1995 and adopted by the municipality on November 23, 1993. The ordinance establishes Middletown Township's affordable housing trust fund for which this spending plan is prepared.

As of July 17, 2008, Middletown has collected \$4,118,070.81, expended \$2,922,629.22, resulting in a balance of \$1,195,441.59. All development fees, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, and interest generated by the fees are deposited in a separate interest-bearing affordable housing trust fund in TD Bank for the purposes of affordable housing. These funds shall be spent in accordance with N.J.A.C. 5:97-8.7-8.9 as described in the sections that follow.

Middletown Township first obtained substantive certification from COAH on March 14, 1994, and subsequently petitioned for second and third round certification on March 13, 2000 and December 20, 2005. Middletown received prior approval to maintain an affordable housing trust fund on November 23, 1993. As of December 31, 2004, the prior round balance remaining in the affordable housing trust fund was \$497,274.59. From January 1, 2005 through July 17, 2008, Middletown collected an additional \$1,406,531.81 in development fees, payments in lieu of construction, other funds, and/or interest. From January 1, 2005 through July 17, 2008, Middletown expended funds on the affordable housing activities detailed in section 4 of this spending plan.

1. REVENUES FOR CERTIFICATION PERIOD

To calculate a projection of revenue anticipated during the period of third round substantive certification, Middletown Township considered the following:

(a) Development fees:

1. Residential and nonresidential projects which have had development fees imposed upon them at the time of preliminary or final development approvals;
2. All projects currently before the planning and zoning boards for development approvals that may apply for building permits and certificates of occupancy; and
3. Future development that is likely to occur based on historical rates of development.

(b) Other funding sources:

Funds from other sources, including, but not limited to, the sale of units with extinguished controls, repayment of affordable housing program loans, rental income, proceeds from the sale of affordable units.

(c) Projected interest:

Interest on the projected revenue in the municipal affordable housing trust fund at the current average interest rate.

MIDDLETOWN TOWNSHIP DRAFT SPENDING PLAN 12/08

SOURCE OF FUNDS	PROJECTED REVENUES-HOUSING TRUST FUND - 2008 THROUGH 2018											
	7/18/08 - 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
(a) Development fees:												
1. Approved Develop.	\$46,868	\$300,000	\$360,000	\$360,000	\$360,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,426,868
2. Pending Approval	\$0	\$60,000	\$200,000	\$200,000	\$200,000	\$360,000	\$200,000	\$150,000	\$50,000	\$0	\$0	\$1,420,000
3. Projected Develop.	\$0	\$0	\$0	\$0	\$0	\$200,000	\$400,000	\$425,000	\$500,000	\$600,000	\$600,000	\$2,725,000
(b) Payments in Lieu of Construction	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(c) Other Funds (Specify)	\$100	\$800	\$800	\$800	\$1,000	\$1,000	\$1,000	\$1,000	\$1,500	\$1,500	\$1,500	\$11,000
(d) Interest	\$7,766	\$12,000	\$12,600	\$13,200	\$13,900	\$14,600	\$15,300	\$16,000	\$17,000	\$17,900	\$18,800	\$159,066
Total	\$54,734	\$372,800	\$573,400	\$574,000	\$574,900	\$575,600	\$616,300	\$592,000	\$568,500	\$619,400	\$620,300	\$5,741,934

Middletown Township projects a total of \$5,741,934 in revenue to be collected between July 18, 2008 and December 31, 2018. All interest earned on the account shall accrue to the account to be used only for the purposes of affordable housing.

2. ADMINISTRATIVE MECHANISM TO COLLECT AND DISTRIBUTE FUNDS

The following procedural sequence for the collection and distribution of development fee revenues shall be followed by Middletown Township:

(a) Collection of development fee revenues:

Collection of development fee revenues shall be consistent with Middletown's development fee ordinance for both residential and non-residential developments in accordance with COAH's rules and P.L.2008, c.46, sections 8 (C. 52:27D-329.2) and 32-38 (C. 40:55D-8.1 through 8.7).

(b) Distribution of development fee revenues:

Fees will be spent as required on housing activity and affordability assistance. No more than 20% of revenue will be spent on administrative costs.

3. DESCRIPTION OF ANTICIPATED USE OF AFFORDABLE HOUSING FUNDS

(a) New construction programs and projects (N.J.A.C. 5:97-8.7)

1. Accessory Apartments	\$ 607,500
2. New Construction	\$ 399,049
3. Residential Over Commercial	\$ 820,000
4. Municipally Sponsored Program	\$ 384,000
Total	\$ 2,210,549

(b) **Market to Affordable** - Projected costs are \$275,000 for 10 units over 10 years.

(c) Affordability Assistance (N.J.A.C. 5:97-8.8)

Projected minimum affordability assistance requirement:

Actual development fees through 7/17/2008		\$3,749,508.89
Actual interest earned through 7/17/2008	+	\$212,150.92
Development fees projected* 2008-2018	+	\$5,571,868
Interest projected* 2008-2018	+	\$159,066
Less housing activity expenditures through 6/2/2008	-	\$1,851,584.18
Total	=	\$7,841,009.60
30 percent requirement	x 0.30 =	\$2,352,302.80
Less Affordability assistance expenditures through 12/31/2004	-	\$85,392.70
PROJECTED MINIMUM Affordability Assistance Requirement 1/1/2005 through 12/31/2018	=	\$2,266,910.10
PROJECTED MINIMUM Very Low-Income Affordability Assistance Requirement 1/1/2005 through 12/31/2018	÷ 3 =	\$755,636.70

* Note: The 2008 portion of this projection reflects 2008 subsequent to July 17 as the remainder of 2008 is included in the actual figure reported above.

Middletown Township will dedicate \$2,266,910.10 from the affordable housing trust fund to render units more affordable, including \$755,636.70 to render units more affordable to households earning 30 percent or less of median income by region, as follows:

Affordability assistance programs will include:

1. Down-payment assistance – Assistance of up to \$3,500 to moderate income households, \$6,500 for low income households and \$10,000 to very low-income households will be provided as down payment assistance.
2. Closing costs – Up to 50% of closing costs up to a maximum \$2,000 will be provided to eligible households.
3. Rental assistance – Assistance will be provided to cover 75% of the first months rent for low and moderate income households, and 100% of the first months rent for very low income households.
4. Conversions - Converting low-income units to very-low-income units will be accomplished as resales of restricted units become available, which will allow further assistance to eligible households.

(d) Administrative Expenses (N.J.A.C. 5:97-8.9)

Middletown acknowledges that administrative expenses withdrawn from the affordable housing trust fund to date have exceeded the 20% limitation. It is the Township's intention to remedy this spending anomaly as soon as possible. Per discussions and email correspondence with COAH, Middletown anticipates collecting sufficient funds through development fees in the upcoming years to achieve the required balance between administrative expenses and cumulative revenues. Middletown will not withdraw funds from the affordable housing trust fund until sufficient revenue is collected to satisfy the 20% administrative expense maximum limitation. A preliminary estimate indicates that Middletown will collect sufficient revenue by 2012 in order to satisfy the 20% administrative limitation.

Middletown Township projects that an additional \$525,000 will be available from the affordable housing trust fund between 2013 and 2018 to be used for administrative purposes. Projected administrative expenditures, subject to the 20 percent cap, are as follows:

Consulting Fees	\$100,000
Legal Fees	\$150,000
Office Supplies	\$5,000
Affirmative Marketing	\$120,000
Personnel	\$150,000

4. EXPENDITURE SCHEDULE

Middletown Township intends to use affordable housing trust fund revenues for the creation and/or rehabilitation of housing units. Where applicable, the creation/rehabilitation funding schedule below parallels the implementation schedule set forth in the Housing Element and Fair Share Plan and is summarized as follows.

PROJECTED EXPENDITURE SCHEDULE 2009 -2018														
Program	Number of Units Projected	Funds Expended and/or Dedicated												
			7/18/08 - 12/31/08	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Accessory Apartments	23	\$90,000	\$0	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$51,750	\$607,500
Market to Affordable	10	\$0	\$0	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$27,500	\$275,000
New Construction	42	\$23,771	\$125,278	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000	\$399,049
Residential / Commercial	22	\$0	\$0	\$240,000	\$0	\$0	\$82,000	\$83,000	\$83,000	\$83,000	\$83,000	\$83,000	\$83,000	\$820,000
Municipally Sponsored Other	43	\$0	\$0	\$0	\$0	\$128,000	\$128,000	\$128,000	\$0	\$0	\$0	\$0	\$0	\$384,000
Total Programs	140	\$113,771	\$125,278	\$344,250	\$104,250	\$314,250	\$315,250	\$315,250	\$187,250	\$187,250	\$187,250	\$187,250	\$187,250	\$2,485,549
Affordability Assistance		\$7,000	\$3,500	\$225,640	\$225,640	\$225,640	\$225,640	\$225,640	\$225,640	\$225,640	\$225,640	\$225,640	\$225,650	\$2,266,910
Administration		\$458,798	\$4,389	\$0	\$0	\$0	\$0	\$75,000	\$80,000	\$85,000	\$90,000	\$95,000	\$100,000	\$988,187
Total		\$579,569	\$133,167	\$569,890	\$329,890	\$329,890	\$539,890	\$615,890	\$620,890	\$497,890	\$502,890	\$507,890	\$512,900	\$5,740,646

5. EXCESS OR SHORTFALL OF FUNDS

Pursuant to the Housing Element and Fair Share Plan, the governing body of Middletown Township has adopted a resolution agreeing to fund any shortfall of funds required for implementing Accessory Apartment, Market to Affordable, New Construction, Residential Over Commercial, Municipally Sponsored "Other" Programs, as well as a housing rehabilitation program if federal and state resources become unavailable. In the event that a shortfall of anticipated revenues occurs, Middletown Township will incur bonded indebtedness, if necessary, to provide the funds required for the timely implementation of the Fair Share Plan. A copy of the adopted resolution is attached.

In the event of excess funds, any remaining funds above the amount necessary to satisfy the municipal affordable housing obligation will be used to support construction of affordable housing and to provide affordability assistance to low and moderate income households, with 20% set aside for administration.

SUMMARY

Middletown Township intends to spend affordable housing trust fund revenues pursuant to N.J.A.C. 5:97-8.7 through 8.9 and consistent with the housing programs outlined in the housing element and fair share plan dated December 11, 2008.

Middletown Township has a balance of \$1,195,441.59 as of July 17, 2008 and anticipates an additional \$5,741,934 in revenues before the expiration of substantive certification for a total of \$6,937,375.59. The municipality will dedicate \$2,210,549 towards Accessory Apartment, Market to Affordable, New Construction, Residential Over Commercial, Municipally Sponsored "Other" Programs, \$2,266,910.10 to render units more affordable, and \$988,187 to administrative costs. Any shortfall of funds will be offset by bonded indebtedness. The municipality will dedicate any excess funds toward support construction of affordable housing and to provide affordability assistance to low and moderate income households, with 20% set aside for administration.

MIDDLETOWN TOWNSHIP DRAFT SPENDING PLAN 12/08

SPENDING PLAN SUMMARY	
Balance as of July 17, 2008	\$1,195,441.59
PROJECTED REVENUE July 18, 2008-2018	
Development fees	+ \$5,571,868
Payments in lieu of construction	+ \$0
Other funds	+ \$11,000
Interest	+ \$159,066
TOTAL REVENUE	= \$6,937,375.59
EXPENDITURES	
Funds used for Rehabilitation	- \$0
Funds used for New Construction	
1. Accessory Apartments	- \$607,500
2. Market to Affordable	- \$275,000
3. New Construction	- \$399,049
4. Residential Over Commercial	- \$820,000
5. Municipally Sponsored Other	- \$384,000
6.	- \$
7.	- \$
8.	- \$
9.	- \$
10.	- \$
Affordability Assistance	- \$2,266,910
Administration	- \$988,187
Excess Funds for Additional Housing Activity	= \$1,196,729.59
1. New Construction	- \$598,364.59
2. Affordability Assistance	- \$359,019
3. Administration	- \$239,346
TOTAL PROJECTED EXPENDITURES	= \$6,937,375.59
REMAINING BALANCE	= \$0.00